

Journal of the House

TWENTY-NINTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Friday, February 17, 2017, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Schwab in the chair.

The roll was called with 123 members present.

Rep. Pittman was excused on legislative business.

Rep. Powell was excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Creator God,
We thank You for this beautiful
sunny and exceptional warm day.
We are especially grateful that it is Friday.
Thank You for Your faithfulness throughout this past week.
Thank You for the good work that has begun.
Help each one to trust You to carry it on to completion.
Much has been accomplished.
There have been tough decisions made—
some expected, some surprising.
Encourage the leaders to continue
to speak courageously,
work harmoniously,
and act in mercy and compassion.
Be with our leaders as they work throughout this day.
Many will travel home for the weekend.
Watch over them, protect them,
give them good quality time with family,
and renew their energy for the tasks that continue to lie ahead.
This I pray in Christ's name,
Amen.

The Pledge of Allegiance was led by Rep. Stogsdill.

CHANGE OF REFERENCE

Speaker pro tem Schwab announced the withdrawal of **HB 2326**, **HB 2353**, **HB 2356** from Committee on Commerce, Labor and Economic Development and referral to Committee on Appropriations.

COMMUNICATIONS FROM STATE OFFICERS

From Barbara J. Hickert, State Long-Term Care Ombudsman, Kansas Department of Administration, per K.S.A. 75-7306; the Kansas Long-Term Care Ombudsman Annual Report for State Fiscal Year 2016.

The complete report is kept on file and open for inspection in the office of the Chief Clerk.

MESSAGES FROM THE SENATE

Announcing passage of **Sub HB 2178**.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Burroughs, **HR 6011**, A RESOLUTION congratulating and commending Ray Lipovac's fifth grade class at Stony Point Elementary School and KC Healthy Kids on their efforts to support healthy kids and communities through the I Am Here program, was adopted.

CONSENT CALENDAR

No objection was made to **HB 2130** appearing on the Consent Calendar for the second day.

No objection was made to **SB 22** appearing on the Consent Calendar for the third day. The bill was advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 22, AN ACT concerning insurance; relating to third party administrators; regulation; amending K.S.A. 40-3801, 40-3802, 40-3804, 40-3806, 40-3807, 40-3808, 40-3809 and 40-3810 and K.S.A. 2016 Supp. 40-3805 and repealing the existing sections; also repealing K.S.A. 40-3803, was considered on final action.

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

Yeas: Alcalá, Alford, Arnberger, Aurand, Averkamp, Baker, Ballard, Barker, Becker, Bishop, Blex, Brim, Burroughs, Campbell, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, DeGraaf, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Lakin, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Proehl, Raffie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Terrell, Thimesch, Thompson, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Pittman, R. Powell.

The bill passed.

Sub HB 2052, AN ACT making and concerning appropriations for the fiscal years ending June 30, 2017, June 30, 2018, June 30, 2019, and June 30, 2020, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2016 Supp. 74-4914d, 74-4920, 75-2319 and 75-6706 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 75-2319d, was considered on final action.

On roll call, the vote was: Yeas 87; Nays 36; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alford, Arnberger, Aurand, Baker, Ballard, Becker, Bishop, Blex, Brim, Campbell, Carlin, Carmichael, Claeys, Clark, Concannon, Cox, Crum, S., Curtis, E. Davis, Dierks, Dietrich, Elliott, Ellis, Eplee, Finch, Finney, Francis, Frownfelter, Gallagher, Gartner, Good, Henderson, Hibbard, Highberger, Hineman, Hoffman, Holscher, Jennings, Johnson, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Lewis, Lusk, Lusker, Markley, Mastroni, Murnan, Neighbor, Ohaebosim, Orr, Ousley, Parker, F. Patton, Phelps, Phillips, Proehl, Rafie, Rahjes, Ralph, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Sloan, Smith, A., Stogsdill, S. Swanson, Terrell, Thompson, Trimmer, Vickrey, Victors, Ward, Waymaster, Weigel, Wheeler, K. Williams, Wilson, Winn, Wolfe Moore.

Nays: Alcala, Awerkamp, Barker, Burroughs, B. Carpenter, Clayton, Corbet, Deere, DeGraaf, Delperdang, Dove, Esau, Garber, Hawkins, Helgerson, Highland, Hodge, Houser, Huebert, Humphries, Jacobs, K. Jones, Lakin, Landwehr, Mason, Miller, Osterman, Resman, Seiwert, Smith, E., Sutton, Tarwater, Thimesch, Weber, C., Whipple, Whitmer.

Present but not voting: None.

Absent or not voting: Pittman, R. Powell.

The substitute bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: Rescission bills represent an opportunity to take a serious look at current government spending. They should certainly not involve an actual *increase* in spending, and that is exactly what **Sub HB 2052** does to the tune of \$138 million. We need a real rescission bill that reins in spending and limits the growth of government, not only for 2017 but for future fiscal years, as well. We support efforts to pass a rescission bill but feel we can do better than **Sub HB 2052**. Therefore, Mr. Speaker, I vote No on **Sub HB 2052**. PETE DEGRAAF, TREVOR JACOBS, BLAKE CARPENTER, JOHN WHITMER, CHUCK WEBER, LESLIE OSTERMAN, RON HIGHLAND, LEO DELPERDANG, RANDY GARBER, KEN CORBET, STEVE HUEBERT, KEITH ESAU, JOE SEIWERT

MR. SPEAKER: I vote Yes on **Sub HB 2052**. In my years of public service I have gotten used to having to choose between a bad option and a really bad option. As a result of tax and budget decisions made over the last 4 years, today we have had to choose between really bad options and really, really bad options. Only in extreme circumstances would I vote to borrow to pay operating expenses or to skip payments to our public employees

retirement fund, and I have only done so today because I am confident that we will take the remaining steps we need to take to restore structural balance to our state budget.

DENNIS "BOOG" HIGHBERGER

MR. SPEAKER: AS a newly elected official, I have an obligation to spend the people's tax money wisely and reduce taxes when possible. Because of others past fiscal irresponsibility, we were forced to pass a bill yesterday that raised taxes to fund those services the people of Kansas need and expect. I feel this bill could have gone further and we could have found more efficiencies and save constituent's hard earned tax dollars. Kansans deserve to keep more of their own money and we need to do more to get our house in order. Mr. Speaker, I vote NO on **Sub HB 2052**. SEAN TARWATER

HB 2161, AN ACT concerning state finances; relating to the investments and reinvestments of state moneys; transfers to and from the state general fund; amending K.S.A. 2016 Supp. 75-2263, 75-4209 and 75-4234 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 98; Nays 25; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Barker, Becker, Bishop, Brim, Campbell, Carlin, Carmichael, Claeys, Clark, Concannon, Cox, Crum, S., Curtis, E. Davis, Deere, DeGraaf, Delperdang, Dierks, Dietrich, Elliott, Ellis, Eplee, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gartner, Good, Hawkins, Henderson, Hibbard, Highberger, Hineman, Hodge, Hoffman, Holscher, Huebert, Humphries, Jennings, Johnson, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Lakin, Lewis, Lusk, Lusker, Markley, Mastroni, Murnan, Neighbor, Ohaebosim, Orr, Ousley, Parker, F. Patton, Phelps, Phillips, Proehl, Rafie, Rahjes, Ralph, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Sloan, Smith, A., Stogsdill, S. Swanson, Tarwater, Terrell, Thompson, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, K. Williams, Wilson, Winn, Wolfe Moore.

Nays: Alcalá, Blex, Burroughs, B. Carpenter, Clayton, Corbet, Dove, Esau, Helgerson, Highland, Houser, Jacobs, K. Jones, Landwehr, Mason, Miller, Osterman, Resman, Schwab, Seiwert, Smith, E., Sutton, Thimesch, Whipple, Whitmer.

Present but not voting: None.

Absent or not voting: Pittman, R. Powell.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: Resolving our budget imbalance and ensuring fiscal responsibility over the long haul requires a real commitment to reducing the growth of government. **HB 2161**, on the other hand, involves the use of one-time money, risks downgrading our credit further, and there is no assurance we will pay the money back. We need to be willing to make the tough decisions regarding our spending, not continue the bad habits of the past. For these reasons, Mr. Speaker, I vote no on **HB 2161**. — BLAKE CARPENTER, TREVOR JACOBS, JOHN R. WHITMER, LESLIE OSTERMAN, RONALD L. HIGHLAND, KEN CORBET, JOE SEIWERT

On motion of Rep. Hineman, the House resolved into the Committee of the Whole, with Rep. Vickrey in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2191** be passed.

Committee report to **HB 2121** be adopted; also, on motion of Rep. Awerkamp to amend **HB 2121**, the motion did not prevail; and the bill be passed as amended.

Committee report to **HB 2031** be adopted; also, on motion of Rep. Landwehr, **HB 2031** be amended on page 2, following line 41, by inserting:

"(d) The department of health and environment shall implement this section within the limitations of existing moneys and resources already allocated to the department.";

On page 3, following line 23, by inserting:

"(d) The department of health and environment shall implement this section within the limitations of existing moneys and resources already allocated to the department." and the bill be passed as amended.

Committee report to **HB 2111** be adopted; and the bill be passed as amended.

Committee report to **HB 2234** be adopted; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2099** be amended on page 2, in line 2, by striking "curtails" and inserting "prevents"; in line 13, by striking "investigate" and inserting "initiate an investigation of"; also in line 13, after the comma by inserting "provide notice of the investigation to the parties"; also in line 13, after "and" by inserting a comma; in line 14, after "investigation" by inserting a comma; in line 32, by striking "curtails" and inserting "prevents"; in line 35, by striking "curtailing" and inserting "preventing"; and the bill be passed as amended.

Committee on **Agriculture** recommends **HB 2100** be amended on page 2, in line 6, after "and" by inserting "one or more of the"; also in line 6, by striking all after "provisions"; by striking all in lines 7 through 10; in line 11, by striking "engineer" and inserting "provided in subsection (b)";

On page 3, in line 31, after "(f)" by inserting "In addition to a management plan under subsection (e).";

On page 4, in line 20, after the period by inserting "Notification shall include a reference to an electronic publication of the management plan and any relevant technical analysis.";

On page 5, in line 3, after "(m)" by inserting "Notwithstanding K.S.A. 82a-1039, and amendments thereto, nothing in this section shall be construed as limiting or affecting any duty or power of a groundwater management district granted to such district by the Kansas groundwater management district act.

(n) ";

Also in line 3, by striking "may" and inserting "shall";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly; and the bill be passed as amended.

Committee on **Elections** recommends **HB 2223** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2223," as follows:

"Substitute for HOUSE BILL NO. 2223
By Committee on Elections

"AN ACT concerning campaign finance reports for members of the legislature and reports by lobbyists; dealing with civil penalties for late filing of such reports; amending K.S.A. 2016 Supp. 25-4148, 25-4152, 46-268 and 46-280 and repealing the existing sections.";

And the substitute bill be passed.

(**Sub HB 2223** was thereupon introduced and read by title.)

Committee on **Financial Institutions and Pensions** recommends **HB 2268** be amended on page 2, in line 34, by striking "2021" and inserting "2020";

On page 3, in line 36, by striking "2021" and inserting "2020";

On page 4, in line 1, after "thereto" by inserting ", to the extent that any such amount paid is included in federal adjusted gross income and subject to federal income taxation"; in line 26, by striking all after "in"; in line 27, by striking all before "the"; in line 28, by striking "2021" and inserting "2020"; in line 29, after "employer" by inserting "or an independent contractor";

On page 5, in line 3, by striking all after "(ii)"; by striking all in lines 4 through 9; in line 10, by striking "(iii)"; in line 18, by striking "or"; in line 20, after "thereto" by inserting ", or members of the state board of regents retirement plan pursuant to K.S.A. 74-4925 et seq., and amendments thereto"; in line 25, by striking "and"; in line 30, after "subsection" by inserting "; and

(vii) employed by a school district in a position that requires a license under K.S.A. 72-1388, and amendments thereto, or other provision of law requiring a similar license and subject to the provisions of K.S.A. 74-4940, and amendments thereto, and who retired on or after July 1, 2017, at age 62 or later. The school district shall pay to the system a 30% employer contribution based on the retiree's compensation during any such period of employment. On or before July 1, 2019, and at least every three years thereafter, the board, in consultation with the system's consulting actuary, shall evaluate the plan's experience with employment of such retirees and the corresponding employer contribution rate to assess whether the employer contribution rate can be expected to fund adverse experience or higher liabilities accruing under the system in connection with employment of such retirees, to the extent that such liability can be ascertained or estimated. Based on this evaluation of the plan's experience, the board may certify to the division of the budget, in the case of the state, and to the agent for each other participating employer, a new rate, if needed, to more fully fund such adverse experience or additional liabilities, but such rate shall not be less than 30%";

On page 6, in line 4, by striking "one" and inserting "three"; in line 5, by striking the first "year" and inserting "years"; also in line 5, by striking "one" and inserting "three"; also in line 5, by striking the second "year" and inserting "years"; in line 7, by striking

all after the last "the"; in line 8, by striking all before "employer"; in line 28, after "(e)" by inserting "Retirants who are independent contractors or employees of third-party entities who contract with a participating employer shall not be subject to the compensation limitation in this subsection or the requirements of subsection (7)(c) regarding enrollment and employer contributions, so long as all of the following apply:

(i) The contractual relationship was not created to allow the retirant to continue employment with the participating employer after retirement in a position similar to the one such retirant held prior to retirement;

(ii) the activities performed by the independent contractor or third-party entity are not normally performed exclusively by employees of that participating employer; and

(iii) the retirant meets the classification of independent contractor as provided in K.S.A. 2016 Supp. 44-768, and amendments thereto, or activities performed by the third-party entity that employs the retirant are performed on a limited-term basis and the third-party entity is not a participating employer in the system.

(f) ";

Also on page 6, in line 29, by striking "one-"; by striking all in lines 30 and 31; in line 32, by striking all before the period and inserting "one year";

On page 7, in line 14, by striking all after "(7)(d)"; in line 15, by striking all before "may"; in line 17, by striking "one or more of"; following line 22, by inserting:

"(j) Any retirant who was hired by a participating employer under the provisions of K.S.A. 74-4937(3), (4) or (5), as such subsections existed immediately prior to July 1, 2017, shall be deemed to be hired under the provisions of subsection (7)(d) and shall continue to be exempt from the compensation limitation in this subsection, subject to the requirements of subsection (7)(d). Any service by a retirant under K.S.A. 74-4937(3), (4) or (5), as such subsections existed immediately prior to July 1, 2017, shall be subject to the provisions of subsection (7)(i) that relate to a limitation on the total term of employment with any participating employer in which a retirant may receive such retirant's full retirement benefit.";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 8, by striking all in lines 35 through 43;

By striking all on pages 9 through 12;

On page 13, by striking all in lines 1 through 40;

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 14, following line 2, by inserting:

"Sec. 3. K.S.A. 2016 Supp. 74-49,123 is hereby amended to read as follows: 74-49,123. (a) This section applies to the Kansas public employees retirement system and to all other public retirement plans administered by the board of trustees.

(b) As used in this section:

(1) "Federal internal revenue code" means the federal internal revenue code of 1954 or 1986, as amended and as applicable to a governmental plan as in effect on July 1, 2008; and

(2) "retirement plan" includes the Kansas public employees retirement system and all other Kansas public retirement plans and benefit structures, which are administered by the board.

(c) In addition to the federal internal revenue code provisions otherwise noted in

each retirement plan's law, and in order to satisfy the applicable requirements under the federal internal revenue code, the retirement plans shall be subject to the following provisions, notwithstanding any other provision of the retirement plan's law:

(1) The board shall distribute the corpus and income of the retirement plan to the members and their beneficiaries in accordance with the retirement plan's law. At no time prior to the satisfaction of all liabilities with respect to members and their beneficiaries shall any part of the corpus and income be used for, or diverted to, purposes other than the exclusive benefit of the members and their beneficiaries.

(2) Forfeitures arising from severance of employment, death or for any other reason may not be applied to increase the benefits any member would otherwise receive under the retirement plan's law. However, forfeitures may be used to reduce an employer's contribution.

(3) All benefits paid from the retirement plan shall be distributed in accordance with a good faith interpretation of the requirements of section 401(a)(9) of the federal internal revenue code and the regulations under that section. Notwithstanding any other provision of these rules and regulations, effective on and after January 1, 2003, the retirement plan is subject to the following provisions:

(A) Benefits must begin by the required beginning date, which is the later of April 1 of the calendar year following the calendar year in which the member reaches 70¹/₂ years of age or April 1 of the calendar year following the calendar year in which the member terminates employment. If a member fails to apply for retirement benefits by April 1 of the calendar year following the calendar year in which such member reaches 70¹/₂ years of age or April 1 of the calendar year following the calendar year in which such member terminates employment, whichever is later, the board will begin distributing the benefit as required by this section.

(B) The member's entire interest must be distributed over the member's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary. Death benefits must be distributed in accordance with section 401(a)(9) of the federal internal revenue code, including the incidental death benefit requirement in section 401(a)(9)(G) of the federal internal revenue code, and the regulations implementing that section.

(C) The life expectancy of a member, the member's spouse or the member's beneficiary may not be recalculated after the initial determination for purposes of determining benefits.

(D) If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution before the member's death and no longer than the remaining period over which distributions commenced.

(E) If a member dies before required distribution of the member's benefits has begun, the member's entire interest must be either:

(i) In accordance with federal regulations, distributed over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31 of the calendar year immediately following the calendar year of the member's death; or

(ii) distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(F) The amount of an annuity paid to a member's beneficiary may not exceed the

maximum determined under the incidental death benefit requirement of the federal internal revenue code.

(G) The death and disability benefits provided by a retirement plan are limited by the incidental benefit rule set forth in section 401(a)(9)(G) of the federal internal revenue code and treasury regulation 1.401-1(b)(1)(i).

(4) Distributions from the retirement plans may be made only upon retirement, separation from service, disability or death.

(5) The board or its designee may not:

(A) Determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of members or beneficiaries, in a manner that discriminates in favor of members who are considered officers, supervisors or highly compensated, as prohibited under section 401(a)(4) of the federal internal revenue code.

(6) Subject to the provisions of this subsection, benefits paid from, and employee contributions made to, the retirement plans shall not exceed the maximum benefits and the maximum annual additions, respectively, permissible under section 415 of the federal internal revenue code.

(A) Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in section 415(b) of the federal internal revenue code, subject to the applicable adjustments in that section. Beginning January 1, 1995, a participant may not receive an annual benefit that exceeds the dollar amount specified in section 415(b)(1)(A) of the federal internal revenue code, subject to the applicable adjustments in section 415 of the federal internal revenue code.

(B) Notwithstanding any other provision of law to the contrary, the board may modify a request by a participant to make a contribution to the retirement plans if the amount of the contribution would exceed the limits under section 415(c) or 415(n) of the federal internal revenue code subject to the following:

(i) Where the retirement plan's law requires a lump-sum payment, for the purchase of service credit, the board may establish a periodic payment plan in order to avoid a contribution in excess of the limits under section 415(c) or 415(n) of the federal internal revenue code.

(ii) If the board's option under ~~subdivision clause~~ (i) will not avoid a contribution in excess of the limits under section 415(c) or 415(n) of the federal internal revenue code, the board shall reduce or deny the contribution.

(C) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if an active member makes one or more contributions to purchase permissive service credit under a retirement plan, then the requirements of this section shall be treated as met only if:

(i) The requirements of section 415(b) of the federal internal revenue code are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of such section; or

(ii) the requirements of section 415(c) of the federal internal revenue code are met, determined by treating all such contributions as annual additions for purposes of such section. For purposes of applying ~~subparagraph clause~~ (i) a retirement plan shall not fail to meet the reduced limit under section 415(b)(2)(C) of the federal internal revenue code solely by reason of this ~~paragraph subparagraph~~ (C), and for purposes of applying ~~subparagraph clause~~ (ii), a retirement plan shall not fail to meet the percentage

limitation under section 415(c)(1)(B) of the federal internal revenue code solely by reason of this paragraph.

(iii) For purposes of this ~~paragraph clause~~, the term "permissive service credit" means service credit:

(a) Specifically recognized by a retirement plan's law for purposes of calculating a member's benefit under that retirement plan;

(b) which such member has not received under a retirement plan; and

(c) which such member may receive under a retirement plan's law only by making a voluntary additional contribution, in an amount determined under the retirement plan's law and procedures established by the board, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

(iv) A retirement plan shall fail to meet the requirements of this ~~paragraph clause~~ if the retirement plan's law specifically provides for a purchase of nonqualified service purchase, and if:

(a) More than five years of nonqualified service credit are taken into account for purposes of this ~~paragraph subclause~~; or

(b) any nonqualified service credit is taken into account under this ~~paragraph subclause~~ before the member has at least five years of participation under a retirement plan. For purposes of this ~~paragraph subclause~~, effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means the same as provided in section 415(n)(3)(C) of the federal internal revenue code.

(v) In the case of a trustee-to-trustee transfer after December 31, 2001, to which section 403(b)(13)(A) or 457(e)(17)(A) of the federal internal revenue code applies, without regard to whether the transfer is made between plans maintained by the same employer:

(a) The limitations of ~~subparagraph clause~~ (iv) shall not apply in determining whether the transfer is for the purchase of permissive service credit; and

(b) the distribution rules applicable under federal law to a retirement plan shall apply to such amounts and any benefits attributable to such amounts.

(vi) For an eligible member, the limitation of section 415(c)(1) of the federal internal revenue code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the statute as in effect on August 5, 1997. For purposes of this ~~subparagraph clause~~, an eligible member is an individual who first became a member in the retirement plan before January 1, 1998.

(D) Subject to approval by the internal revenue service, the board shall maintain a qualified governmental excess benefit arrangement under section 415(m) of the federal internal revenue code. The board shall establish the necessary and appropriate procedures for the administration of such benefit arrangement under the federal internal revenue code. The amount of any annual benefit that would exceed the limitations imposed by section 415 of the federal internal revenue code shall be paid from this benefit arrangement. The amount of any contribution that would exceed the limitations imposed by section 415 of the federal internal revenue code shall be credited to this benefit arrangement. The qualified excess benefit arrangement shall be a separate portion of the retirement plan. The qualified excess benefit arrangement is subject to the following requirements:

(i) The benefit arrangement shall be maintained solely for the purpose of providing to participants in the retirement plans that part of the participant's annual benefit otherwise payable under the terms of the act that exceeds the limitations on benefits imposed by section 415 of the federal internal revenue code; and

(ii) participants do not have an election, directly or indirectly, to defer compensation to the excess benefit arrangement.

(E) For purposes of applying these limits only and for no other purpose, the definition of compensation where applicable shall be compensation actually paid or made available during a limitation year, except as noted below and as permitted by treasury regulation section 1.415(c)-2. Specifically, compensation shall be defined as wages within the meaning of section 3401(a) of the federal internal revenue code and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under sections 6041(d), 6051(a)(3) and 6052 of the federal internal revenue code. Compensation shall be determined without regard to any rules under section 3401(a) of the federal internal revenue code that limit the remuneration included in wages based on the nature or location of the employment or the services performed, such as the exception for agricultural labor in section 3401(a)(2) of the federal internal revenue code.

(i) However, for limitation years beginning after December 31, 1997, compensation shall also include amounts that would otherwise be included in compensation but for an election under sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b) of the federal internal revenue code. For limitation years beginning after December 30, 2000, compensation shall also include any elective amounts that are not includable in the gross income of the employee by reason of section 132(f)(4) of the federal internal revenue code.

(ii) The definition of compensation shall exclude employee contributions picked up under section 414(h)(2) of the federal internal revenue code.

(iii) For limitation years beginning on and after January 1, 2007, compensation for the limitation year will also include compensation paid by the later of two and a half months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:

(a) The payment is regular compensation for services during the employee's regular working hours or compensation for services outside the employee's regular working hours, such as overtime or shift differential, commissions, bonuses or other similar payments, and absent a severance from employment, the payments would have been paid to the employee while the employee continues in employment with the employer;

(b) the payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or

(c) for limitation years beginning on and after January 1, 2012, the payment is made pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includable in the member's gross income.

(iv) Any payments not described in ~~paragraph clause~~ (iii) are not considered compensation if paid after severance from employment, even if they are paid within two and a half months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of

qualified military service, within the meaning of section 414(u)(1) of the federal internal revenue code, to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

(v) An employee who is in qualified military service, within the meaning of section 414(u)(1) of the federal internal revenue code, shall be treated as receiving compensation from the employer during such period of qualified military service equal to: (a) The compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service; or (b) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve-month period immediately preceding the qualified military service, or if shorter, the period of employment immediately preceding the qualified military service.

(vi) Back pay, within the meaning of treasury regulation section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(7) On and after January 1, 2009, for purposes of applying the limits under section 415(b) of the federal internal revenue code, the following shall apply:

(A) A member's applicable limit shall be applied to the member's annual benefit in the first limitation year without regard to any automatic cost-of-living increases;

(B) to the extent the member's annual benefit equals or exceeds such limit, the member shall no longer be eligible for cost-of-living increases until such time as the benefit plus the accumulated increases are less than such limit;

(C) thereafter, in any subsequent limitation year, the member's annual benefit including any automatic cost-of-living increase applicable shall be tested under the then applicable benefit limit including any adjustment to the dollar limit under section 415(b)(1)(A) or 415(d) of the federal internal revenue code and the regulations thereunder; and

(D) in no event shall a member's annual benefit payable from a retirement plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d) of the federal internal revenue code and the regulations thereunder. If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity, then the preceding sentence is applied by reducing the limit under section 415(b) of the federal internal revenue code applicable at the annuity starting date to an actuarially equivalent amount determined using the assumptions specified in treasury regulation section 1.415(b)-1(c)(2)(ii) that take into account the death benefits under the form of benefit. This subsection applies to distributions made on and after January 1, 1993. A distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a transfer made from the retirement system.

(i) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (a) Any distribution that is one of a series of substantially equal periodic

payments, not less frequently than annually, made for the life or the life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary or for a specified period of 10 years or more; (b) any distribution to the extent such distribution is required under section 401(a)(9) of the federal internal revenue code; (c) the portion of any distribution that is not includable in gross income; and (d) any other distribution that is reasonably expected to total less than \$200 during the year. Effective January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the federal internal revenue code, or to a qualified defined contribution plan described in section 401(a) of the federal internal revenue code or to a qualified plan described in section 403(a) of the federal internal revenue code, that agrees to separately account for amounts so transferred and earnings on such amounts, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not so includable, or on or after January 1, 2007, to a qualified defined benefit plan described in section 401(a) of the federal internal revenue code or to an annuity contract described in section 403(b) of the federal internal revenue code, that agrees to separately account for amounts so transferred and earnings thereon, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not so includable.

(ii) An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution:

(a) An individual retirement account described in section 408(a) of the federal internal revenue code;

(b) an individual retirement annuity described in section 408(b) of the federal internal revenue code;

(c) an annuity plan described in section 403(a) of the federal internal revenue code;

(d) a qualified trust described in section 401(a) of the federal internal revenue code;

(e) effective January 1, 2002, an annuity contract described in section 403(b) of the federal internal revenue code;

(f) effective January 1, 2002, a plan eligible under section 457(b) of the federal internal revenue code that is maintained by a state, political subdivision of a state or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into the plan from a retirement plan; or

(g) effective January 1, 2008, a roth IRA described in section 408(A) of the federal internal revenue code.

(iii) Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the federal internal revenue code.

(iv) A distributee includes an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the federal internal revenue code. Effective July 1, 2007, a distributee further includes a nonspouse beneficiary who

is a designated beneficiary as defined by section 401(a)(9)(E) of the federal internal revenue code. However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

(v) A direct rollover is a payment by the retirement system to the eligible retirement plan specified by the distributee.

(8) Notwithstanding any law to the contrary, the board may accept a direct or indirect eligible rollover distributions for the purpose of the purchase of service credit. In addition, the board may accept a direct trustee to trustee transfer from a deferred compensation plan under section 457(b) of the federal internal revenue code or a tax sheltered annuity under section 403(b) of the federal internal revenue code for: (A) The purchase of permissive service credit, as defined under section 415(n)(3)(A) of the federal internal revenue code; or (B) a repayment to which section 415 of the federal internal revenue code does not apply pursuant to section 415(k)(3) of the federal internal revenue code. Any such transfer shall be allowed as provided in this subsection to the extent permitted by law, subject to any conditions, proofs or acceptance established or required by the board or the board's designee.

(9) Where required by the act, an employer shall pick up and pay contributions that would otherwise be payable by members of a retirement plan in accordance with section 414(h)(2) of the federal internal revenue code as follows:

(A) The contributions, although designated as employee contributions, are being paid by the employer in lieu of contributions by the employee;

(B) the employee must not have been given the option of receiving the amounts directly instead of having them paid to the retirement plan; and

(C) the pickup shall apply to amounts that a member elects to contribute to receive credit for prior or participating service if the election is irrevocable and applies to amounts contributed before retirement.

(10) (A) Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the federal internal revenue code and the uniformed services employment and reemployment rights act of 1994.

(B) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service, as defined in chapter 43 of title 38, United States code, to the extent required by section 401(a)(37) of the federal internal revenue code, survivors of a member in the system, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed. A deceased member's period of qualified military service must be counted for vesting purposes.

(C) Effective with respect to deaths or disabilities, or both, occurring on or after January 1, 2007, while a member is performing qualified military service, as defined in chapter 43 of title 38, United States code, to the extent permitted by section 414(u)(9) of the federal internal revenue code, for the benefit accrual purposes and in the case of death, for vesting purposes, the member will be treated as having earned years of service for the period of qualified military service, having returned to employment on the day before the death or disability, or both, and then having terminated on the date of

death or disability. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(D) Beginning January 1, 2009, to the extent required by section 414(u)(12) of the federal internal revenue code, an individual receiving differential wage payments, as defined under section 3401(h)(2) of the federal internal revenue code, from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under section 415(c) of the federal internal revenue code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(11) Upon the complete or partial termination of a retirement plan, the rights of members to benefits accrued to the date of termination, to the extent funded, or to the amounts in their accounts are nonforfeitable, and amounts in their accounts may be distributed to them.

(d) The plan year for the retirement plan begins on July 1.

(e) The limitation year for purposes of section 415 of the federal internal revenue code is the calendar year.

(f) The board may not engage in a transaction prohibited by section 503(b) of the federal internal revenue code.

(g) (1) For purposes of determining an "actuarial equivalent" or of an "actuarial computation" for members hired prior to July 1, 2009, the board shall use the following:

(A) The applicable mortality table is specified in revenue ruling 2001-62 or revenue ruling 2007-67, as applicable; and

(B) the applicable interest factor is ~~8% per year~~ the actuarially assumed rate of return established by the board.

(2) For purposes of determining an "actuarial equivalent" or an "actuarial computation" for members hired on or after July 1, 2009, the board shall use the following:

(A) The applicable mortality table is the ^{50/50} male/female blend of the RP 2000 health annuitant mortality table, projected to 2025; and

(B) the applicable interest factor is ~~8% per year~~ the actuarially assumed rate of return established by the board.

(3) For converting amounts payable under the partial lump sum option, the board shall use the following:

(A) The applicable mortality table is a ^{50/50} male/female blend of the 1983 group annuity mortality table; and

(B) the applicable interest factor is ~~8% per year~~ the actuarially assumed rate of return established by the board.

(4) For benefit testing under section 415(b) of the federal internal revenue code, the factors required by treasury regulations shall be used. The applicable mortality table is specified in revenue ruling 2001-62 for years prior to January 1, 2009, and notice 2008-85 for years after December 31, 2008.;

Also on page 14, in line 3, by striking "and" and inserting a comma; also in line 3, after "74-4937" by inserting "and 74-49,123";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, by striking "extending"; in line 3, by striking all before the semicolon and inserting "determining actuarial equivalent or actuarial computation, interest factor"; also in line 3, by striking "and" and inserting a comma; in

line 4, after "74-4937" by inserting "and 74-49,123"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2260** be passed.

Committee on **Judiciary** recommends **HB 2301** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Judiciary** recommends **HB 2302** be amended on page 3, in line 24, by striking "place the animal for adoption or euthanize" and inserting "transfer ownership of"; in line 35, by striking "to the petitioner"; in line 36, by striking "placed for adoption or killed" and inserting "transferred"; in line 38, by striking all before "of" and inserting "transfer"; in line 39, by striking all before "was" and inserting "transfer";

On page 5, in line 13, by striking all after the second "to"; in line 14, by striking all before the first "the" and inserting "transfer ownership of"; in line 22, by striking "to"; in line 23, by striking all before the period; in line 29, by striking all after "dog"; in line 30, by striking all before "under" and inserting "transferred"; in line 31, by striking "placement or killing" and inserting "transfer"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2320** be amended on page 1, in line 33, after the period by inserting "Upon entry of appearance by an attorney on behalf of the defendant, or indication by the defendant to the court that such defendant will represent the defendant's self,"; in line 34, by striking all after the first "defendant"; in line 35, by striking all before "or"; in line 36, by striking all after "counsel";

On page 2, in line 1, by striking "attorney"; and the bill be passed as amended.

Committee on **Local Government** recommends **HB 2278** be passed.

Committee on **Transportation** recommends **HB 2076** be passed.

Committee on **Transportation** recommends **HB 2148** be amended on page 2, following line 40, by inserting:

"Sec. 2. (a) On and after January 1, 2018, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Kansas 4-H foundation license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the Kansas 4-H foundation, inc. or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Kansas 4-H foundation, inc. may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support the Kansas 4-H foundation, inc. Any motor vehicle owner or lessee annually may apply to the Kansas 4-H foundation, inc. for use of such logo. Upon annual application and payment to either: (1) The Kansas 4-H foundation, inc. in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each such license plate to be issued, the Kansas 4-H foundation, inc. shall issue to the motor vehicle owner or lessee, without further

charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the Kansas 4-H foundation, inc. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer Kansas 4-H foundation license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A. 8-132(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment established by the Kansas 4-H foundation, inc. If such statement is not presented at the time of registration or faxed by the Kansas 4-H foundation, inc., or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A. 8-143, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Kansas 4-H foundation, inc. shall provide to all county treasurers an electronic mail address where applicants can contact the Kansas 4-H foundation, inc. for information concerning the application process or the status of such applicant's license plate application.

(h) As a condition of receiving the Kansas 4-H foundation license plate and any subsequent registration renewal of such license plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the Kansas 4-H foundation, inc. and the state treasurer.

(i) Annual royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas 4-H foundation royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Kansas 4-H foundation royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the Kansas 4-H foundation royalty fund to the appropriate designee of the Kansas 4-H foundation, inc. shall be made on a monthly basis.";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "plate" by inserting "; the Kansas 4-H foundation license plate"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2040** be amended on page 4, in line 14, after "shall" by inserting "prepare and"; in line 16, by striking "and sent" and inserting ". Such citation may be served on such person in any manner authorized by law, including, but not limited to, mailing it"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2203** be amended on page 1, in line 9, by striking "SGT"; in line 13, by striking "SGT";

Also on page 1, in the title, in line 1, by striking "SGT"; and the bill be passed as amended.

Committee on **Water and Environment** recommends **HB 2272** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2272," as follows:

"Substitute for HOUSE BILL NO. 2272
By Committee on Water and Environment

"AN ACT concerning water; creating the Kansas water authority science and research subcommittee.";

And the substitute bill be passed.

(**Sub HB 2272** was thereupon introduced and read by title.)

REPORT OF STANDING COMMITTEE

Your Committee on **Calendar and Printing** recommends on requests for resolutions and certificates that

Request No. 24, by Representative Pam Curtis, congratulating Kristina Kidwells' Third Grade Class for being winner of the 2016 KC Healthy Kids "I Am Here Youth Photo Contest";

Request No. 25, by Representative Brenda Dietrich, commending Noah Meier for achieving the rank of Eagle Scout;

Request No. 26, by Representative Brenda Dietrich, commending Ethan Hughes for achieving the rank of Eagle Scout;

Request No. 27, by Representative Ron Highland, congratulating Rossville High School Bulldawgs Football Team for winning the 2016 Kansas 3A State Championship;

Request No. 28, by Representative Brett Parker, congratulating Annaleigh T Hobbs for outstanding achievement as a 2017 Gold Award Winner with the Girl Scout of NE Kansas and NW Missouri;

Request No. 29, by Representative Debbie Deere, congratulating Leah Wiegers for earning the Girl Scout Gold Award;

Request No. 30, by Representative Debbie Deere, congratulating Phoebe Taylor for earning the Girl Scout Gold Award;

Request No. 31, by Representative Tom Sloan, congratulating Danielle McEathron for receiving the Girl Scout Gold Award;

be approved and the Chief Clerk of the House be directed to order the printing of said

certificates and order drafting of said resolutions.

On motion of Rep. Hineman, the committee report was adopted.

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2367, AN ACT concerning property taxation; relating to valuation, duties of county appraiser, appeals; amending K.S.A. 2016 Supp. 79-1412a and 79-1460 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 79-1496, by Committee on Taxation.

HB 2368, AN ACT concerning income taxation; relating to deductions, business entities that create new jobs, by Committee on Taxation.

CHANGE OF REFERENCE

Speaker pro tem Schwab announced the withdrawal of **HB 2182**, **HB 2185**, **HB 2355** from Committee on Commerce, Labor and Economic Development and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2019** from Committee on Appropriations and rereferral to Committee on Children and Seniors.

COMMITTEE ASSIGNMENT CHANGES

Speaker pro tem Schwab announced the appointment of Rep. Frownfelter to replace Rep. Hodge on Committee on General Government Budget on February 17, 2017.

REPORT ON ENGROSSED BILLS

Sub HB 2052, **HB 2161** reported correctly engrossed February 16, 2017.

On motion of Rep. Hineman, the House adjourned until 11:00 a.m., Monday, February 20, 2017.

BECKIE HENDRICKS, JENNY HAUGH, JULIA WERNER, *Journal Clerks.*

SUSAN W. KANNARR, *Chief Clerk.*

