

Journal of the Senate

FIFTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, March 27, 2023, 10:00 a.m.

The Senate was called to order by Vice President Rick Wilborn.
The roll was called with 39 senators present.
Senator Kerschen was excused.
Invocation by Reverend Cecil T. Washington:

Giving To God, Rather Than Him Giving To Us

Lord, I don't want to begin today by asking You for anything. And it's not that we don't have plenty that we could be asking You for, but today, I believe the Psalmist, in the 100th Psalm, had it right. Rather than what we want You to give to us, the focus is what we should give to You. What are You looking for from us? Lord, this 100th Psalm, directs all our attention to You.

Verses 1 and 2, say, 1) Make a joyful noise (of praise) unto the Lord, all you lands; everybody! 2) Serve the Lord (serving His people) with gladness. Come before His presence with singing (even if out of tune.)

Then in Verse 3, He tells us why. It's because of what we should know! 3) Know that the Lord, He is God. It is He who has made us, and not we ourselves. We are His people and the sheep of His pasture.

In Verse 4, Lord, You return us to thanksgiving and praise. 4) Enter into His gates (approach Him) with thanksgiving and into His courts (His presence) with praise. Be thankful to Him and bless His Name.

Then lastly, in Verse 5, You have the Psalmist give us the wrap up. 5) For the Lord is good (You are good.) Your mercy is everlasting and Your truth (that which is real) endures to all generations.

So, Lord, we praise You and thank You. For already, You have given us far more than what we could have asked for or imagined. In Jesus Name, Amen!

The Pledge of Allegiance was led by Vice President Wilborn.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Federal and State Affairs: **SB 323**; **HB 2436**.

CHANGE OF REFERENCE

An objection having been made to **HB 2087** appearing on the **Consent Calendar**, the Vice President directed the bill be removed and placed on the calendar under the

heading of **General Orders**.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

Sub SB 55, AN ACT concerning property taxation; relating to exemptions; expanding and clarifying the exemption for Strother field airport property; amending K.S.A. 79-201r and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 27; Nays 11; Present and Passing 1; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Dietrich, Doll, Erickson, Fagg, Gossage, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pyle, Ryckman, Shallenburger, Straub, Thompson, Tyson, Warren, Wilborn.

Nays: Corson, Faust-Goudeau, Francisco, Haley, Holland, Holscher, Pettey, Pittman, Reddi, Sykes, Ware.

Present and Passing: Steffen.

Absent or Not Voting: Kerschen.

The bill passed.

EXPLANATION OF VOTE

The Department of Revenue indicates that there are currently two parcels of property in Cowley County that have exemption applications pending before the KS Board of Tax Appeals (BOTA). **Sub SB 55** is a bill that would essentially bypass the KS Board of Tax Appeals' outstanding determination on exception applications concerning those two parcels currently before the board. The legislature needs to stay in its lane and allow the property tax court system to first complete its determination before wading into this matter. For this reason, I vote "NO" on **Sub SB 55**.—TOM HOLLAND

I vote "NO" on **Sub SB 55** for the following reasons: Court of Tax Appeals (COTA) denied Strother Field airport property its request for property tax exemption. They applied to Board of Tax Appeals (BOTA), had a hearing and are waiting for a decision. I feel it is not appropriate for us to supersede BOTA's discussion and outcome of the hearing. It undermines the process.—USHA REDDI

HB 2096, AN ACT concerning insurance; relating to premium tax; adjusting the basis upon which certain premium tax calculations are made; requiring such premium taxes to be paid 90 days after each calendar year and basing such premium taxes upon the gross premiums collected for the previous calendar year; amending K.S.A. 12-2624 and 44-588 and repealing the existing sections, was considered on final action.

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

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Holland, Holscher, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Reddi, Ryckman, Shallenburger, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Kerschen.

The bill passed, as amended.

HB 2097, AN ACT concerning insurance; relating to penalties; failure of agents or brokers to pay premiums; removing the requirement of a documented written demand for premiums as part of a prima facie case; amending K.S.A. 40-247 and repealing the existing section, was considered on final action.

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

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Holland, Holscher, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Reddi, Ryckman, Shallenburger, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Kerschen.

The bill passed, as amended.

HB 2098, AN ACT concerning insurance; relating to insurance laws and enforcement thereof; adding certain legal entities to the definition of "person"; amending K.S.A. 40-2,125 and repealing the existing section, was considered on final action.

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

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Holland, Holscher, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Reddi, Ryckman, Shallenburger, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Kerschen.

The bill passed, as amended.

HB 2100, AN ACT concerning insurance; relating to risk-based capital requirements; updating the version of instructions in effect; amending K.S.A. 2022 Supp. 40-2c01 and repealing the existing section, was considered on final action.

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

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Holland, Holscher, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Reddi, Ryckman, Shallenburger, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Kerschen.

The bill passed, as amended.

HB 2214, AN ACT concerning the department of corrections; relating to facilities; changing the name of the Larned correctional mental health facility to the Larned state correctional facility; removing references to facilities that no longer exist; amending K.S.A. 75-5202 and K.S.A. 2022 Supp. 75-52,167 and repealing the existing sections, was considered on final action.

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

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Holland, Holscher, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle,

Reddi, Ryckman, Shallenburger, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Kerschen.

The bill passed, as amended.

HB 2285, AN ACT concerning insurance; relating to insurance law; updating certain statutory references contained therein; amending K.S.A. 40-201, 40-216, 40-241 and 40-955 and repealing the existing sections, was considered on final action.

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

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Holland, Holscher, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Reddi, Ryckman, Shallenburger, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Kerschen.

The bill passed, as amended.

HB 2298, AN ACT concerning roads and highways; designating a portion of interstate 435 as the Officer Donald Burton Gamblin Jr memorial highway, was considered on final action.

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

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Holland, Holscher, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Reddi, Ryckman, Shallenburger, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Kerschen.

The bill passed, as amended.

COMMITTEE OF THE WHOLE

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

SB 300; HB 2080, HB 2240 be passed.

HB 2322 be amended by motion of Senator Baumgardner; on page 4, in line 12, after "autism," by inserting "dyslexia,";

On page 5, in line 7, after "autism," by inserting "dyslexia,";

On page 1, in the title, in line 3, after "disability" by inserting "and include dyslexia" and **HB 2322** be passed as amended.

HB 2039, HB 2173, HB 2234, HB 2375 be amended by the adoption of the committee amendments, and the bills be passed as amended.

SB 147 be amended by the adoption of the committee amendments, be further amended by motion of Senator Sykes; on page 1, following line 5, by inserting:

"Section 1. K.S.A. 79-32,111c is hereby amended to read as follows: 79-32,111c. (a) There shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to 12.5% for tax year 2018; an amount equal to 18.75% for tax year 2019; ~~and~~ an amount equal to 25% for tax ~~year~~

years 2020 through 2022; and an amount equal to 50% for tax year 2023, and all tax years thereafter, of the amount of the credit allowed against such taxpayer's federal income tax liability pursuant to 26 U.S.C. § 21 for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability.

(b) The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by K.S.A. 79-32,110, and amendments thereto, reduced by the sum of any other credits allowable pursuant to law.

(c) No credit provided under this section shall be allowed to any individual who fails to provide a valid social security number issued by the social security administration, to such individual, the individual's spouse and every dependent of the individual.";

On page 2, in line 18, after "K.S.A." by inserting "79-32,111c and"; also in line 18, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "increasing the tax credit amount for household and dependent care expenses"; in line 3, after "K.S.A." by inserting "79-32,111c and"; also in line 3, by striking "section" and inserting "sections"

SB 147 be further amended by motion of Senator Holland; on page 2, in line 5, before "and" by inserting "(1)"; in line 6, before "shall" by inserting "for tax years 2014 through 2022"; also on page 2, following line 17, by inserting:

"(d) For tax year 2023, and all tax years thereafter, if the amount of the credit allowed by subsections (a)(2) and (b) exceeds the taxpayer's income tax liability for such taxable year, the amount thereof that exceeds such tax liability shall be refunded to the taxpayer.";

On page 1, in the title, in line 2, before the semicolon by inserting "and making the credit refundable"

SB 147 be further amended by motion of Senator Pittman; on page 1, in line 26, after "to" by inserting ": (A)"; in line 29, after "section" by inserting "; and (B) in addition to subsection (a)(2)(A), 50% of the amount of such federal income tax credit, if the child adopted by the taxpayer is a child with special needs, as defined in section 23 of the federal internal revenue code, and the child was a resident of Kansas prior to such lawful adoption,"

and **SB 147** be passed as further amended.

HB 2059 be amended by the adoption of the committee amendments, be further amended by motion of Senator Blasi; on page 1, following line 8, by inserting:

"Section 1. On and after July 1, 2023, K.S.A. 41-104 is hereby amended to read as follows: 41-104. (a) No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes, except as specifically provided in this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, except that nothing contained in ~~this act~~ such acts shall prevent:

(~~a~~)(1) The possession and transportation of alcoholic liquor for the personal use of the possessor, the possessor's family and guests except that the provisions of K.S.A. 41-407, and amendments thereto, shall be applicable to all persons;

(~~b~~)(2) the making of wine, cider or beer by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker, the maker's family, guests and judges at a contest

or competition of such beverages, provided, the maker receives no compensation for producing such beverages or for allowing the consumption thereof;

~~(e)~~(3) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of the medical or dental profession;

~~(f)~~(4) any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or institution;

~~(g)~~(5) any drugstore employing a licensed pharmacist from possessing and using alcoholic liquor in the compounding of prescriptions of duly licensed physicians;

~~(h)~~(6) the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church;

~~(i)~~(7) the sale of wine to a consumer in this state by a person which holds a valid license authorizing the manufacture of wine in this or another state and the shipment of such wine directly to such consumer, subject to the following:

~~(1)~~(A) The consumer must be at least 21 years of age;

~~(2)~~(B) the consumer must purchase the wine while physically present on the premises of the wine manufacturer;

~~(3)~~(C) the wine must be for the consumer's personal consumption and not for resale; and

~~(4)~~(D) the consumer shall comply with the provisions of K.S.A. 41-407, and amendments thereto, by payment of all applicable taxes within such time after purchase of the wine as prescribed by rules and regulations adopted by the secretary;

~~(h)~~(8) the serving of complimentary alcoholic liquor or cereal malt beverages at fund raising activities of charitable organizations as defined by K.S.A. 17-1760, and amendments thereto, and as qualified pursuant to ~~26-U.S.C.A.~~ U.S.C. § 501(c) and by committees formed pursuant to K.S.A. 25-4142 et seq., and amendments thereto. The serving of such alcoholic liquor at such fund raising activities shall not constitute a sale pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto. Any such fund raising activity shall not be required to obtain a license or a temporary permit pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto; ~~or~~

~~(i)~~(9) the serving of complimentary alcoholic liquor or cereal malt beverage on the unlicensed premises of a business by the business owner or owner's agent at an event sponsored by a nonprofit organization promoting the arts and which has been approved by ordinance or resolution of the governing body of the city, county or township wherein the event will take place and whereby the director of the alcoholic beverage control has been notified thereof no less than 10 days in advance; or

(10) the provision of alcoholic liquor or cereal malt beverage as a prize for a charitable raffle conducted in accordance with K.S.A. 75-5171 et seq., and amendments thereto, except that no such prize shall be provided to any person under 21 years of age.

~~(j)~~(b) For purposes of subsection ~~(b)~~ ~~(a)(2)~~, the term "guest" means a natural person who is known to the host and receives a personal invitation to an event conducted by the host. The term "guest" ~~shall~~ does not mean a natural person who receives an invitation to an event conducted by the host when such invitation has been made available to the general public.";

On page 7, in line 41, after "K.S.A." by inserting "41-104 and"; also in line 41, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the semicolon by inserting "exempting charitable raffle prizes of alcoholic liquor and cereal malt beverages from the Kansas liquor control act, the club and drinking establishment act and the Kansas cereal malt beverage act;"; in line 4, after "K.S.A." by inserting "41-104," and **HB 2059** be passed as further amended.

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

On motion of Senator Alley, the Senate recessed until 2:30 p.m.

AFTERNOON SESSION

The Senate met pursuant to recess with Vice President Wilborn in the Chair.

COMMITTEE OF THE WHOLE

The Senate returned to Committee of the whole for consideration of bills under the heading of General Orders with Senator Longbine in the chair.

On motion of Senator Longbine, the report for the morning and the following afternoon session was adopted.

HB 2082; Sub HB 2121; HB 2226, HB 2269, HB 2288 be passed.

SB 265 be amended by motion of Senator Haley; on page 1, following line 6, by inserting:

"New Section 1. (a) Notwithstanding any provision of law to the contrary, if a defendant is convicted of an offense that resulted in the incapacitation or death of a victim who is the parent or guardian of a minor child, then the court shall order the defendant to pay restitution in the form of reasonable and necessary support of each minor child of the victim until each minor child reaches 18 years of age and has graduated from high school, or the class of which the minor child is a member when the child reaches 18 years of age has graduated from high school.

(b) When determining the amount of support that is reasonable and necessary for the support of the child, the court shall consider all relevant factors, including, but not limited to:

- (1) The age of the child;
- (2) the financial needs and resources of the child;
- (3) the financial resources and needs of the surviving parent or guardian of the child or the financial resources of the state if the child is in the custody of the secretary for children and families;
- (4) the standard of living to which the child is accustomed;
- (5) the physical and emotional condition of the child and the child's educational needs;
- (6) the child's legal custody and residency; and
- (7) the reasonable child care expenses of the surviving parent or guardian.

(c) The court shall order the support payments be paid to the child's parent or guardian. The court's order shall be enforced as a judgment of restitution pursuant to

K.S.A. 20-169, and amendments thereto, and K.S.A. 2022 Supp. 21-6604(b)(2), and amendments thereto. Payments shall continue until the entire arrearage is paid in full.

(d) (1) If the victim or the victim's family brings a civil action against the defendant prior to the court ordering the defendant to pay the restitution described in this section and the victim or the victim's family obtains a judgment in such action, then the restitution described in this section shall not be ordered.

(2) If the court enters an order pursuant to this section and the victim or the victim's family subsequently brings a civil action against the defendant and obtains a judgment in such action, then the order entered pursuant to this section shall be offset by the amount of the judgment in such action.

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

And by renumbering sections accordingly;

Also on page 1, in the title, in line 1, after the semicolon by inserting "relating to restitution; requiring a person convicted of an offense that resulted in the incapacitation or death of a victim who is the parent or guardian of a minor child to pay restitution in the form of child support;"

And the bill be passed as amended.

SB 271, SB 309; HB 2019, HB 2125, HB 2196, HB 2236, HB 2263, HB 2284, HB 2292, HB 2335 be amended by the adoption of the committee amendments, and the bills be passed as amended.

A motion by Senator Straub to amend **HB 2125** failed.

A motion to further amend **HB 2236** was offered by Senator Pettey.

A ruling of the chair was requested as to the germaneness to the bill. The Chair of the Rules Committee ruled the amendment not germane.

In accordance with Senate Rule 27, Senator Sykes requested that the question on **HB 2263**, as amended by Senate Committee, be divided into two parts.

Part One was retained on voice vote.

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

On roll call, the vote was: Yeas 26; Nays 12; Present and Passing 0; Absent or Not Voting 2.

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Erickson, Fagg, Gossage, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pyle, Ryckman, Shallenburger, Steffen, Straub, Thompson, Tyson, Warren, Wilborn.

Nays: Corson, Doll, Faust-Goudeau, Francisco, Haley, Holland, Holscher, Pettey, Pittman, Reddi, Sykes, Ware.

Absent or Not Voting: Dietrich, Kerschen.

Part Two was retained.

SB 291 be amended by the adoption of the committee amendments, be further amended by motion of Senator Tyson; on page 1, in line 24, by striking "6" and inserting "9";

On page 2, in line 4, after "(4)" by inserting ""Entity" means a partnership, association, trust, joint venture, corporation, group, subgroup or other non-United States governmental organization.

(5)";

On page 3, following line 22, by inserting:

"(9) (A) "Foreign adversary" means any government or nongovernment person

determined to be a foreign adversary pursuant to 15 C.F.R. § 7.4, as in effect on July 1, 2023, except as otherwise provided by paragraph (2).

(B) Upon any occasion when 15 C.F.R. § 7.4 is amended after July 1, 2023, the attorney general may, in the attorney general's sole discretion, adopt rules and regulations to add or remove a government or nongovernment person from the definition of "foreign adversary" but only after giving due consideration to the risks to state and national security and the economic costs and benefits of such action.";

Also on page 3, following line 27, by inserting:

"(12) "Person" means an individual or entity.

(13) "Person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary" means:

(A) Any person, wherever located, who acts as an agent, representative or employee, or any person who acts in any other capacity at the order, request or under the direction or control, of a foreign adversary or of a person whose activities are directly or indirectly supervised, directed, controlled, financed or subsidized in whole or in majority part by a foreign adversary;

(B) any person, wherever located, who is a citizen or resident of a nation-state controlled by a foreign adversary, unless such person is a dual citizen of the United States and a foreign adversary;

(C) any corporation, partnership, association or other organization organized under the laws of a nation-state controlled by a foreign adversary; or

(D) any corporation, partnership, association or other organization, wherever organized or doing business, that is owned or controlled by a foreign adversary.";

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

On page 5, following line 12, by inserting:

"New Sec. 4. (a) The board shall sell, redeem, divest or withdraw all publicly traded securities of any foreign adversary or person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary in accordance with the following schedule:

(1) At least 50% of those assets shall be removed from the system's assets under management not later than one year after the effective date of this act or one year from the date 15 C.F.R. § 7.4 is amended to include such foreign adversary if amended after July 1, 2023, unless the board determines that a later date is more prudent, based on a good faith exercise of the board's fiduciary discretion and subject to paragraph (2); and

(2) 100% of such assets shall be removed from the system's assets under management not later than 18 months after the effective date of this act or one year from the date 15 C.F.R. § 7.4 is amended to include such foreign adversary if amended after July 1, 2023.

(b) The system may not acquire securities of any foreign adversary or person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary.

New Sec. 5. The board shall divest from any indirect holdings in actively or passively managed investment funds or private equity funds containing publicly traded securities of any foreign adversary or person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary. The board shall submit letters to the managers of each investment fund containing publicly traded securities of any foreign adversary or person owned by, controlled by or subject to the jurisdiction or direction of

a foreign adversary requesting that they remove such publicly traded securities from the fund or create a similar actively or passively managed fund with indirect holdings devoid of such publicly traded securities. If a manager creates a similar fund with substantially the same management fees and substantially the same level of investment risk and anticipated return, the board may replace all applicable investments with investments in the similar fund in a time frame consistent with prudent fiduciary standards but not later than the 450th day after the date the fund is created. If a manager does not create such similar fund, the board shall divest from such indirect holdings in actively or passively managed investment funds or private equity funds.

New Sec. 6. Not later than the first day of the regular session of the legislature, each year, the board shall file a report with the treasurer, the president of the senate, the speaker of the house of representatives and the attorney general that:

(a) Identifies all securities sold, redeemed, divested or withdrawn in compliance with section 4(a), and amendments thereto;

(b) identifies all prohibited investments under section 4(b), and amendments thereto; and

(c) summarizes any changes made under section 5, and amendments thereto.";

And by renumbering sections accordingly;

On page 1, in the title, in line 17, before "providing" by inserting "directing the board of trustees of the Kansas public employees retirement system to divest from investments with foreign adversaries;"

And **SB 291** be passed as further amended.

A motion to further amend **SB 291** was offered by Senator Steffen. A ruling of the chair was requested as to the germaneness to the bill.

The Chair of the Rules Committee ruled the amendment not germane.

The ruling of the Chair was challenged.

The ruling of the Chair was sustained by voice vote.

SB 252 be amended by the adoption of the committee amendments, be further amended by motion of Senator Baumgardner; on page 1, in line 28, after the period by inserting "'Competes against the business" does not include providing such goods or services at a facility that was funded as the result of an election where voters of the governmental entity approved the imposition of a tax or other funding for the facility, its operations or the repayment of bonds related to the facility."

and **SB 252** be passed as further amended.

The committee report on **HB 2010** recommending **S Sub HB 2010** be adopted, and the substitute bill be passed.

S Sub HB 2016 be passed over and retain a place on the calendar.

MESSAGE FROM THE HOUSE

The House accedes to the request of the Senate for a conference on **SB 15** and has appointed Representatives Sutton, Penn and Neighbor as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 18** and has appointed Representatives Sutton, Penn and Neighbor as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 28** and has appointed Representatives Sutton, Penn and Neighbor as conferees on the part of the

House.

The House accedes to the request of the Senate for a conference on **SB 106** and has appointed Representatives Francis, Neelly and Ballard as conferees on the part of the House.

REPORTS OF STANDING COMMITTEES

The Committee on **Assessment and Taxation** recommends **HB 2002** be amended on page 1, following line 6, by inserting:

"New Section 1. Adverse influences not sufficiently accounted for in the agricultural use valuation formula for land devoted to agricultural use shall be addressed by the director of property valuation and the county appraiser. Adverse influences include, but are not limited to, canopy cover, salinity and alkalinity, water table fluctuation and newly constructed drainage and flood control areas. The county appraiser shall address canopy cover, salinity and alkalinity, water table fluctuation and newly constructed drainage and flood control areas as follows:

- (a) For canopy cover, the county appraiser shall:
 - (1) View the parcel;
 - (2) delineate the area impacted on a map;
 - (3) determine the appropriate reduction from actual inspection and make the appropriate reduction as follows:
 - (A) 0 to 25% cover = no reduction;
 - (B) 25% to 50% cover = 20% reduction;
 - (C) 50% to 75% cover = 30% reduction; and
 - (D) 75% to 100% cover = 50% reduction; and
 - (4) establish an adverse influence file for the parcel;
- (b) for salinity and alkalinity, the county appraiser shall:
 - (1) Request that the taxpayer provide soil analysis from a crop consulting service;
 - (2) delineate the area impacted on a map;
 - (3) reduce the value as indicated by the report;
 - (4) establish an adverse influence file for the parcel; and
 - (5) notify the local United States department of agriculture natural resources conservation service (NRCS) office of the change;
- (c) for water table fluctuation, the county appraiser shall:
 - (1) Delineate the area impacted on a map;
 - (2) contact the local NRCS office and request verification;
 - (3) contact the division of property valuation for assistance;
 - (4) obtain a temporary influence amount from the division of property valuation to use until the NRCS review is complete; and
 - (5) establish an adverse influence file for the parcel; and
- (d) for newly constructed drainage and flood control areas, the county appraiser shall:
 - (1) View the parcel;
 - (2) delineate the area impacted on a map;
 - (3) contact the division of property valuation for assistance;
 - (4) receive an adverse influence amount from the division of property valuation after the division contacts the responsible agency; and
 - (5) establish an adverse influence file for the parcel.

Sec. 2. K.S.A. 2022 Supp. 79-1460 is hereby amended to read as follows: 79-1460. (a) ~~(1)~~ The county appraiser shall notify each taxpayer in the county annually on or before March 1 for real property and May 1 for personal property, by mail directed to the taxpayer's last known address, of the classification and appraised valuation of the taxpayer's property, except that, the valuation for all real property shall not be increased unless the record of the latest physical inspection was reviewed by the county or district appraiser, and documentation exists to support such increase in valuation in compliance with the directives and specifications of the director of property valuation, and such record and documentation is available to the affected taxpayer. The valuation for all real property also shall not be increased solely as the result of normal repair, replacement or maintenance of existing structures, equipment or improvements on the property. ~~For purposes of this section, "normal repair, replacement or maintenance" does not include new construction as defined in this section.~~ For the next two taxable years following the taxable year that the valuation for commercial real property has been reduced due to a final determination made pursuant to the valuation appeals process, the county appraiser shall review the computer-assisted mass-appraisal of the property and if the valuation in either of those two years exceeds the value of the previous year by more than 5%, excluding new construction, change in use or change in classification, the county appraiser shall either:

~~(1)(A)~~ (A) Adjust the valuation of the property based on the information provided in the previous appeal; or

~~(2)(B)~~ (B) order an independent fee simple appraisal of the property to be performed by a Kansas certified real property appraiser. ~~As used in this section, "new construction" means the construction of any new structure or improvements or the remodeling or renovation of any existing structures or improvements on real property.~~

(2) When the valuation for real property has been reduced due to a final determination made pursuant to the valuation appeals process for the prior year, and the county appraiser has already certified the appraisal rolls for the current year to the county clerk pursuant to K.S.A. 79-1466, and amendments thereto, the county appraiser may amend the appraisal rolls and certify the changes to the county clerk to implement the provisions of this subsection and reduce the valuation of the real property to the prior year's final determination, except that such changes shall not be made after October 31 of the current year. ~~For the purposes of this section and in the case of real property, the term "taxpayer" shall be deemed to be the person in ownership of the property as indicated on the records of the office of register of deeds or county clerk and, in the case where the real property or improvement thereon is the subject of a lease agreement, such term shall also be deemed to include the lessee of such property if the lease agreement has been recorded or filed in the office of the register of deeds. Such notice~~

(b) (1) The notice provided under subsection (a) shall specify:

(A) Separately ~~both for~~ the previous ~~and current~~ two tax years and the current tax year, the appraised and assessed values for each property class identified on the parcel. ~~Such notice shall also contain:~~

(B) the uniform parcel identification number prescribed by the director of property valuation. ~~Such notice shall also contain; and~~

(C) a statement of the taxpayer's right to appeal, the procedure to be followed in making such appeal and the availability without charge of the guide devised pursuant to

subsection ~~(b)~~ (c).

(2) Such notice may, and if the board of county commissioners so require, shall provide the parcel identification number, address and the sale date and amount of any or all sales utilized in the determination of appraised value of residential real property.

(c) In any year in which no change in appraised valuation of any real property from its appraised valuation in the next preceding year is determined, an alternative form of notification which has been approved by the director of property valuation may be utilized by a county.

(d) Failure to timely mail or receive such notice shall in no way invalidate the classification or appraised valuation as changed. The secretary of revenue shall adopt rules and regulations necessary to implement the provisions of this section.

~~(b) For all taxable years commencing after December 31, 1999,~~

(e) There shall be provided to each taxpayer, upon request, a guide to the property tax appeals process. The director of the division of property valuation shall devise and publish such guide; and shall provide sufficient copies thereof to all county appraisers. Such guide shall include, but not be limited to:

(1) A restatement of the law which pertains to the process and practice of property appraisal methodology, including the contents of K.S.A. 79-503a and 79-1460, and amendments thereto;

(2) the procedures of the appeals process, including the order and burden of proof of each party and time frames required by law; and

(3) such other information deemed necessary to educate and enable a taxpayer to properly and competently pursue an appraisal appeal.

(f) As used in this section:

(1) "New construction" means the construction of any new structure or improvements or the remodeling or renovation of any existing structures or improvements on real property.

(2) "Normal repair, replacement or maintenance" does not include new construction.

(3) "Taxpayer" means the person in ownership of the property as indicated on the records of the office of register of deeds or county clerk and includes the lessee of such property if the lease agreement has been recorded or filed in the office of the register of deeds and the real property or improvement thereon is subject of a lease agreement.

Sec. 3. K.S.A. 79-1496 is hereby amended to read as follows: 79-1496. Within 60 days after the date the notice of informal meeting results or final determination is mailed to the taxpayer pursuant to K.S.A. 79-1448, and amendments thereto, any taxpayer aggrieved by the final determination of the county appraiser, who has not filed an appeal with the board of tax appeals pursuant to K.S.A. 74-2433f, 79-1448, 79-1609 or 79-1611, and amendments thereto, may file with the county appraiser a third-party fee simple appraisal performed by a Kansas certified general real property appraiser that reflects the value of the property as of January 1 for the same tax year being appealed. For determinations and appeals relating to residential property pursuant to this section, a taxpayer may file with the county appraiser a third-party fee simple appraisal performed by either a Kansas certified residential real property appraiser or a Kansas certified general real property appraiser that reflects the value of the property as of January 1 for the same tax year being appealed. Within 15 days after receipt of the appraisal, the county appraiser shall review and consider such appraisal in the determination of

valuation or classification of the taxpayer's property and mail a supplemental notice of final determination. If the final determination is not in favor of the taxpayer then the county appraiser shall notify the taxpayer that the county is required to perform its own, or commission a fee simple single property appraisal. The county appraiser shall then have 90 days to furnish that appraisal along with a new supplemental notice of determination and if not in favor of the taxpayer include an explanation of the reasons the county appraiser did not rely upon the taxpayer's fee simple single property appraisal. Whenever a taxpayer submits a fee simple single property appraisal the burden of proof shall be on the county appraiser to dispute the value of that appraisal. Any taxpayer aggrieved by the final determination of the county appraiser may appeal to the state board of tax appeals as provided in K.S.A. 79-1609, and amendments thereto, within 30 days subsequent to the date of mailing of the supplemental notice of final determination.

Sec. 4. K.S.A. 2022 Supp. 79-2988 is hereby amended to read as follows: 79-2988.

(a) On or before June 15 each year, the county clerk shall calculate the revenue neutral rate for each taxing subdivision and include such revenue neutral rate on the notice of the estimated assessed valuation provided to each taxing subdivision for budget purposes. The director of accounts and reports shall modify the prescribed budget information form to show the revenue neutral rate.

(b) No tax rate in excess of the revenue neutral rate shall be levied by the governing body of any taxing subdivision unless a resolution or ordinance has been approved by the governing body according to the following procedure:

(1) At least 10 days in advance of the public hearing, the governing body shall publish notice of its proposed intent to exceed the revenue neutral rate by publishing notice: ~~(A) on the website of the governing body, if the governing body maintains a website; and~~

~~(B) in a weekly or daily newspaper of the county having a general circulation therein. The notice shall include, but not be limited to, its proposed tax rate, its revenue neutral rate and the date, time and location of the public hearing.~~

(2) On or before July 20, the governing body shall notify the county clerk of its proposed intent to exceed the revenue neutral rate and provide the date, time and location of the public hearing and its proposed tax rate. For all tax years commencing after December 31, 2021, the county clerk shall notify each taxpayer with property in the taxing subdivision, by mail directed to the taxpayer's last known address, of the proposed intent to exceed the revenue neutral rate at least 10 days in advance of the public hearing. Alternatively, the county clerk may transmit the notice to the taxpayer by electronic means at least 10 days in advance of the public hearing, if such taxpayer and county clerk have consented in writing to service by electronic means. The county clerk shall consolidate the required information for all taxing subdivisions relevant to the taxpayer's property on one notice. The notice shall be in a format prescribed by the director of accounts and reports. The notice shall include, but not be limited to:

~~(A) The revenue neutral rate of each taxing subdivision relevant to the taxpayer's property;~~

~~(B) the proposed property tax revenue needed to fund the proposed budget of the taxing subdivision, if the taxing subdivision notified the county clerk of its proposed intent to exceed its revenue neutral rate;~~

~~(C) the proposed tax rate based upon the proposed budget and the current year's~~

total assessed valuation of the taxing subdivision, if the taxing subdivision notified the county clerk of its proposed intent to exceed its revenue neutral rate;

(D) the percentage by which the proposed tax rate exceeds the revenue neutral rate;

(E) the tax rate and property tax of each taxing subdivision on the taxpayer's property from the previous year's tax statement;

(F) the appraised value and assessed value of the taxpayer's property for the current year;

(G) the estimates of the tax for the current tax year on the taxpayer's property based on the revenue neutral rate of each taxing subdivision and any proposed tax rates that exceed the revenue neutral rates;

(H) the difference between the estimates of tax based on the proposed tax rate and the revenue neutral rate on the taxpayer's property described in subparagraph (G) for any taxing subdivision that has a proposed tax rate that exceeds its revenue neutral rate; and

(I) the date, time and location of the public hearing of the taxing subdivision, if the taxing subdivision notified the county clerk of its proposed intent to exceed its revenue neutral rate.

The following heading:
"NOTICE OF PROPOSED PROPERTY TAX INCREASE AND PUBLIC HEARINGS

[Current year] [County name] County Revenue Neutral Rate Notice

This is NOT a bill. Do not remit payment."

(B) the following statement:

"This notice contains estimates of the tax on your property and proposed property tax increases. THE ACTUAL TAX ON YOUR PROPERTY MAY INCREASE OR DECREASE FROM THESE ESTIMATES. Governing bodies of taxing subdivisions must vote in order to exceed the Revenue Neutral Rate to increase the total property taxes collected. Governing bodies will vote at public hearings at the dates, times and locations listed. Taxpayers may attend and comment at the hearings. Property tax statements will be issued after mill rates are finalized and taxes are calculated."

(C) the appraised value and assessed value of the taxpayer's property for the current year and the previous year;

(D) the amount of property tax of each taxing subdivision on the taxpayer's property from the previous year's tax statement in a column titled: "[Previous year] Tax";

(E) the estimated amount of property tax for the current year of each taxing subdivision on the taxpayer's property based on the revenue neutral rate of each taxing subdivision in a column titled: "[Current year] Tax at Revenue Neutral Rate";

(F) the estimated amount of property tax for the current year of each taxing subdivision on the taxpayer's property based on either: (i) The revenue neutral rate for a taxing subdivision that does not intend to exceed its revenue neutral rate; or (ii) the proposed tax rate provided by the taxing subdivision, if the taxing subdivision notified the county clerk of its proposed intent to exceed its revenue neutral rate in a column titled: "[Current year] Maximum Tax";

(G) the difference between the amount of the current year's maximum tax and the previous year's tax, reflected in dollars and a percentage, for each taxing subdivision in a column titled: "[Current year] Maximum Tax Exceeding [Previous year] Tax";

(H) the date, time and location of the public hearing of each taxing subdivision that

notified the county clerk of its proposed intent to exceed its revenue neutral rate in a column titled: "Date, Time and Location of Public Hearing"; and

(I) for each taxing subdivision public hearing listed pursuant to subparagraph (H), the difference between the current year's maximum tax and the estimated amount of property tax based on the revenue neutral rate of such taxing subdivision in a column titled: "[Current year] Maximum Tax Exceeding Tax at Revenue Neutral Rate".

Although the state of Kansas is not a taxing subdivision for purposes of this section, the notice shall include ~~a statement of the statutory mill levies imposed by the state~~ the previous year's tax amount and the estimate of the tax for the current year on the taxpayer's property based on ~~such the statutory mill~~ levies.

(3) The public hearing to consider exceeding the revenue neutral rate shall be held not sooner than August 20 and not later than September 20. The governing body shall provide interested taxpayers desiring to be heard an opportunity to present oral testimony within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment. The public hearing may be conducted in conjunction with the proposed budget hearing pursuant to K.S.A. 79-2929, and amendments thereto, if the governing body otherwise complies with all requirements of this section. Nothing in this section shall be construed to prohibit additional public hearings that provide additional opportunities to present testimony or public comment prior to the public hearing required by this section.

(4) A majority vote of the governing body, by the adoption of a resolution or ordinance to approve exceeding the revenue neutral rate, shall be required prior to adoption of a proposed budget that will result in a tax rate in excess of the revenue neutral rate. Such vote of the governing body shall be conducted at the public hearing after the governing body has heard from interested taxpayers and shall be a roll call vote. If the governing body approves exceeding the revenue neutral rate, the governing body shall not adopt a budget that results in a tax rate in excess of its proposed tax rate as stated in the notice provided pursuant to this section. A copy of the resolution or ordinance to approve exceeding the revenue neutral rate and a certified copy of any roll call vote reporting, at a minimum, the name and vote of each member of the governing body related to exceeding the revenue neutral rate, whether approved or not, shall be included with the adopted budget, budget certificate and other budget forms filed with the county clerk and the director of accounts and reports and shall be published on the website of the department of administration.

(c) (1) Any governing body subject to the provisions of this section that does not comply with subsection (b) shall refund to taxpayers any property taxes over-collected based on the amount of the levy that was in excess of the revenue neutral rate.

(2) Any taxpayer of the taxing subdivision that is the subject of the complaint or such taxpayer's duly authorized representative may file a complaint with the state board of tax appeals by filing a written complaint, on a form prescribed by the board, that contains the facts that the complaining party believes show that a governing body of a taxing subdivision did not comply with the provisions of subsection (b) and that a reduction or refund of taxes is appropriate. The complaining party shall provide a copy of such complaint to the governing body of the taxing subdivision making the levy that is the subject of the complaint. Notwithstanding K.S.A. 74-2438a, and amendments thereto, no filing fee shall be charged by the executive director of the state board of tax appeals for a complaint filed pursuant to this paragraph. The governing body of the

taxing subdivision making the levy that is the subject of the complaint shall be a party to the proceeding. Notice of any summary proceeding or hearing shall be served upon such governing body, the county clerk, the director of accounts and reports and the complaining party. It shall be the duty of the governing body to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity of such levy. If upon a summary proceeding or hearing, it shall be made to appear to the satisfaction of the board that the governing body of the taxing subdivision did not comply with subsection (b), the state board of tax appeals shall order such governing body to refund to taxpayers the amount of property taxes over collected or reduce the taxes levied, if uncollected. The provisions of this paragraph shall not be construed as prohibiting any other remedies available under the law.

(d) On and after January 1, 2022, in the event that the 20 mills levied by a school district pursuant to K.S.A. 72-5142, and amendments thereto, increases the property tax revenue generated for the purpose of calculating the revenue neutral rate from the previous tax year and such amount of increase in revenue generated from the 20 mills is the only reason the school district would exceed the total property tax revenue from the prior year, the school district shall be deemed to not have exceeded the revenue neutral rate in levying a tax rate in excess of the revenue neutral rate to take into account the increase in revenue from only the 20 mills.

(e) (1) Notwithstanding any other provision of law to the contrary, if the governing body of a taxing subdivision must conduct a public hearing to approve exceeding the revenue neutral rate under this section, the governing body of the taxing subdivision shall certify, on or before October 1, to the proper county clerk the amount of ad valorem tax to be levied.

(2) If a governing body of a taxing subdivision did not comply with the provisions of subsection (b) and certifies to the county clerk an amount of ad valorem tax to be levied that would result in a tax rate in excess of its revenue neutral rate, the county clerk shall reduce the ad valorem tax to be levied to the amount resulting from such taxing subdivision's revenue neutral rate.

(f) As used in this section:

(1) "Taxing subdivision" means any political subdivision of the state that levies an ad valorem tax on property.

(2) "Revenue neutral rate" means the tax rate for the current tax year that would generate the same property tax revenue as levied the previous tax year using the current tax year's total assessed valuation. To calculate the revenue neutral rate, the county clerk shall divide the property tax revenue for such taxing subdivision levied for the previous tax year by the total of all taxable assessed valuation in such taxing subdivision for the current tax year, and then multiply the quotient by 1,000 to express the rate in mills. The revenue neutral rate shall be expressed to the third decimal place.

(g) In the event that a county clerk incurred costs of printing and postage that were not reimbursed pursuant to K.S.A. 2022 Supp. 79-2989, and amendments thereto, such county clerk may seek reimbursement from all taxing subdivisions required to send the notice. Such costs shall be shared proportionately by all taxing subdivisions that were included on the same notice based on the total property tax levied by each taxing subdivision. Payment of such costs shall be due to the county clerk by December 31.

(h) The department of administration or the director of accounts and reports shall make copies of adopted budgets, budget certificates, other budget documents and

revenue neutral rate documents available to the public on the department of administration's website on a permanently accessible web page that may be accessed via a conspicuous link to that web page placed on the front page of the department's website. The department of administration or the director of accounts and reports shall also make the following information for each tax year available on such website:

- (1) A list of taxing subdivisions by county;
- (2) whether each taxing subdivision conducted a hearing to consider exceeding its revenue neutral rate;
- (3) the revenue neutral rate of each taxing subdivision;
- (4) the tax rate resulting from the adopted budget of each taxing subdivision; and
- (5) the percent change between the revenue neutral rate and the tax rate for each taxing subdivision.";

Also on page 1, in line 8, before "If" by inserting "For calendar years 2023 and 2024,"; in line 28, before "K.S.A." by inserting "K.S.A. 79-1496 and"; also in line 28, after "Supp." by inserting "79-1460, 79-2988 and"; also in line 28, by striking "is" and inserting "are"; in line 30, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

Also on page 1, in the title, in line 1, by striking "the taxpayer notification costs fund" and inserting "property taxation"; also in line 1, by striking all after the semicolon; in line 2, by striking all before "reimbursement" and inserting "relating to the revenue neutral rate; extending"; also in line 2, after the second "the" by inserting "taxpayer notification costs"; in line 3, by striking "beyond" and inserting "for"; also in line 3, by striking "2023" and inserting "2024; modifying and prescribing the contents of the revenue neutral rate public hearing notice; relating to valuation and appeals; providing two prior years' values on the annual valuation notice; allowing for filing of an appraisal by a certified residential real property appraiser for appeal purposes; accounting for adverse influences in the valuation of agricultural land"; also in line 3, after "amending" by inserting "K.S.A. 79-1496 and"; in line 4, after "Supp." by inserting "79-1460, 79-2988 and"; also in line 4, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Education** recommends **HB 2060** be amended by substituting with a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2060," as follows:

"Senate Substitute for HOUSE BILL NO. 2060

By Committee on Education

"AN ACT concerning education; relating to postsecondary educational institutions; authorizing payments from the state safety fund to community colleges for the provision of driver's education; authorizing the provision of tools, supplies and examinations for participants in an AO-K career pathway program; including high school equivalency credentials in performance-based payments for postsecondary educational institutions; amending K.S.A. 8-272 and 74-32,434 and K.S.A. 2022 Supp. 74-32,267 and repealing the existing sections.";

And the substitute bill be passed.

Also, **HB 2138** be amended by substituting with a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2138," as follows:

"Senate Substitute for HOUSE BILL NO. 2138

By Committee on Education

"AN ACT concerning education; relating to school districts; requiring separate overnight accommodations for students of each biological sex during school district sponsored travel; providing for administrative review of resolutions to permanently close a school building; amending K.S.A. 72-1431 and repealing the existing section.";

And the substitute bill be passed.

Committee on **Judiciary** recommends **HB 2069** be amended by substituting with a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2069," as follows:

"Senate Substitute for HOUSE BILL NO. 2069

By Committee on Judiciary

"AN ACT concerning real property; relating to the conveyance thereof; prohibiting the conveyance of certain real property to foreign adversaries; establishing criminal penalties therefor; requiring the attorney general to investigate such conveyances.";

And the substitute bill be passed.

Also, **HB 2070** be amended by substituting with a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2070," as follows:

"Senate Substitute for HOUSE BILL NO. 2070

By Committee on Judiciary

"AN ACT concerning children and minors; establishing the office of the child advocate as an independent state agency and prescribing certain powers, duties and functions therefor; authorizing access to certain records; relating to children in need of care; making orders granting custody for adoption subject to the federal Indian child welfare act; directing the secretary for children and families to consider foster parents as prospective adoptive parents under certain circumstances; requiring the secretary to report certain data on adoptions; authorizing the appeal of any order of placement of a child; providing for retroactivity; amending K.S.A. 38-2203, 38-2213, 38-2270, 38-2273, 38-2309 and 38-2310 and K.S.A. 2022 Supp. 38-2211 and 38-2212 and repealing the existing sections.";

And the substitute bill be passed.

HB 2127 be amended by substituting with a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2127," as follows:

"Senate Substitute for HOUSE BILL NO. 2127

By Committee on Judiciary

"AN ACT concerning childhood sexual abuse; permitting a prosecution for childhood sexual abuse to be commenced at any time; providing exceptions in the Kansas tort claims act for claims arising from childhood sexual abuse; extending the time to file civil actions for recovery of damages caused by childhood sexual abuse; amending K.S.A. 12-105b, 75-6104 and 75-6105 and K.S.A. 2022 Supp. 21-5107 and 60-523 and repealing the existing sections.";

And the substitute bill be passed.

HB 2021, As Amended by House Committee, be amended on page 1, by striking all in lines 11 through 25; on page 4, by striking all in lines 38 through 43;

By striking all on pages 5 through 15;

On page 16, by striking all in lines 1 through 35;

On page 17, in line 1, after the semicolon by inserting "and"; in line 2, by striking all after "(C)"; by striking all in lines 3 and 4; in line 5, by striking "(D)"; in line 9, after the second "centers" by inserting ", community health centers, the youth advocate program,

jobs for America's graduates Kansas transition services"; in line 41, before "The" by inserting "(1)";

On page 18, in line 2, after "fund" by inserting "after other expenditures for evidence-based programs are made"; following line 8, by inserting:

"(2) Child welfare case management providers shall not be eligible to receive grants under this subsection.";

Also on page 18, in line 19, by striking all after "38-2304"; in line 20, by striking all before "and";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after the semicolon; by striking all in lines 2 through 4 and inserting "requiring agencies to collaborate when providing services to juvenile offenders and children in need of care;"; in line 5, by striking "authorizing"; by striking all in line 6; in line 7, by striking all before "amending"; also in line 7, by striking all after "38-2304"; in line 8, by striking all before the first "and"; and the bill be passed as amended.

HB 2172 be amended on page 1, in line 7, before "Section" by inserting "New"; in line 9, before "Sec." by inserting "New";

On page 4, in line 20, before "Sec." by inserting "New"; in line 37, before "Sec." by inserting "New";

On page 5, in line 4, before "Sec." by inserting "New"; in line 16, before "Sec." by inserting "New"; in line 21, before "Sec." by inserting "New";

On page 6, in line 26, before "Sec." by inserting "New"; in line 42, before "Sec." by inserting "New";

On page 7, in line 43, before "Sec." by inserting "New";

On page 8, in line 6, before "Sec." by inserting "New";

On page 9, in line 27, before "Sec." by inserting "New";

On page 10, in line 13, before "Sec." by inserting "New";

On page 11, in line 19, before "Sec." by inserting "New";

On page 12, in line 13, before "Sec." by inserting "New"; in line 38, before "Sec." by inserting "New";

On page 13, in line 14, before "Sec." by inserting "New"; in line 29, before "Sec." by inserting "New"; in line 39, before "Sec." by inserting "New";

On page 16, in line 25, before "Sec." by inserting "New"; in line 31, before "Sec." by inserting "New"; in line 35, before "Sec." by inserting "New";

On page 17, in line 5, before "Sec." by inserting "New"; in line 23, before "Sec." by inserting "New"; in line 26, before "Sec." by inserting "New"; in line 34, before "Sec." by inserting "New";

On page 18, in line 6, before "Sec." by inserting "New"; in line 10, before "Sec." by inserting "New"; in line 13, before "Sec." by inserting "New"; in line 19, before "Sec." by inserting "New"; following line 23, by inserting:

"Sec. 31. K.S.A. 2022 Supp. 58a-411 is hereby amended to read as follows: 58a-411. (a) A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all qualified beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's modification or termination may be exercised by an attorney in fact under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's conservator with the approval of the court supervising the

conservatorship if an agent is not so authorized; or by the settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator has not been appointed. This subsection does not apply to irrevocable trusts created before, or to revocable trusts that became irrevocable before, January 1, 2003.

(b) A noncharitable irrevocable trust may be terminated upon consent of all of the qualified beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent of all of the qualified beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

(c)(1) A spendthrift provision in the terms of the trust is not presumed to constitute a material purpose of the trust.

(2) Application of the rule against perpetuities is not presumed to constitute a material purpose of the trust.

(d) Upon termination of a trust under subsection (a) or (b), the trustee shall distribute the trust property as agreed by the qualified beneficiaries.

(e) If not all of the qualified beneficiaries consent to a proposed modification or termination of the trust under subsection (a) or (b), the modification or termination may be approved by the court if the court is satisfied that:

(1) If all of the qualified beneficiaries had consented, the trust could have been modified or terminated under this section; and

(2) the interests of a qualified beneficiary who does not consent will be adequately protected.

Sec. 32. K.S.A. 59-3404 is hereby amended to read as follows: 59-3404. K.S.A. 59-3401, and amendments thereto, the statutory rule against perpetuities, does not apply to:

(1) A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of a:

(i) ~~a~~ premarital or postmarital agreement;

(ii) ~~a~~ separation or divorce settlement;

(iii) ~~a~~ spouse's election;

(iv) ~~a~~ similar arrangement arising out of a prospective, existing or previous marital relationship between the parties;

(v) ~~a~~ contract to make or not to revoke a will or trust;

(vi) ~~a~~ contract to exercise or not to exercise a power of appointment;

(vii) ~~a~~ transfer in satisfaction of a duty of support; or

(viii) ~~a~~ reciprocal transfer;

(2) a fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease or mortgage property, and the power of a fiduciary to determine principal and income;

(3) a power to appoint a fiduciary;

(4) a discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal;

(5) a nonvested property interest held by a charity, government or governmental agency or subdivision, if the nonvested property interest is preceded by an interest held by another charity, government or governmental agency or subdivision;

(6) a nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock

bonus, health, disability, death benefit, income deferral or other current or deferred benefit plan for one or more employees, independent contractors or the beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse; ~~or~~

(7) a property interest, power of appointment or arrangement that was not subject to the common-law rule against perpetuities or is excluded by another statute of this state; ~~or~~

(8) a trust in which the governing instrument states that the rule against perpetuities does not apply to the trust and under which the trustee or other person to whom the power is properly granted or delegated has power under the governing instrument, any applicable statute or the common law to sell, lease or mortgage property for any period of time beyond the period which would otherwise be required for an interest created under the governing instrument to vest. This subsection shall apply to all trusts created by will or inter vivos agreement executed or amended on or after July 1, 2023, and to all trusts created by exercise of power of appointment granted under instruments executed or amended on or after July 1, 2023.

Sec. 33. K.S.A. 2022 Supp. 79-32,109 is hereby amended to read as follows: 79-32,109. As used in this act, unless the context otherwise requires:

(a) (1) Any term used in this act shall have the same meaning as when used in a comparable context in the federal internal revenue code. Any reference in this act to the "federal internal revenue code" shall mean the provisions of the federal internal revenue code of 1986, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective at any time, or from time to time, for the taxable year.

(2) Any reference in this act to a federal form or schedule, or to a line number on a federal form or schedule, shall be to such form, schedule and line number as they existed for tax year 2011 and as revised thereafter by the internal revenue service. Any such reference shall include comparable federal forms, schedules, and line numbers used by non-United States residents when filing their federal income tax return with the internal revenue service.

(b) "Resident individual" means a natural person who is domiciled in this state. A natural person who spends in the aggregate more than six months of the taxable year within this state shall be presumed to be a resident for purposes of this act in absence of proof to the contrary. A nonresident individual means an individual other than a resident individual.

(c) "Resident estate" means the estate of a deceased person whose domicile was in this state at the time of such person's death. "Nonresident estate" means an estate other than a resident estate.

(d) "Resident trust" means a trust that:

(1) Is administered in this state ~~and that~~;

(2) was created by or consists of property owned by a person domiciled in this state on the date the trust or portion of the trust became irrevocable; and

(3) has at least one income beneficiary who, on the last day of the taxable year, was a resident of this state.

(e) (1) "Resident partner" means a partner who is a resident individual, a resident estate, or a resident trust.

(2) "Nonresident partner" means a partner other than a resident partner.

(f) (1) "Resident beneficiary" means a beneficiary of an estate or trust which beneficiary is a resident individual, a resident estate, or a resident trust.

(2) "Nonresident beneficiary" means a beneficiary other than a resident beneficiary.

(g) "Director" means the director of taxation.

(h) (1) "Modified Kansas source income" means that part of a nonresident individual's Kansas adjusted gross income as set forth in K.S.A. 79-32,117, and amendments thereto, derived from sources in Kansas. Items of income including unemployment compensation, gain, loss or deduction reflected in Kansas adjusted gross income shall be considered derived from sources in Kansas to the extent that they are attributable to:

(A) The ownership of any interest in real or tangible personal property in this state;

(B) a business, trade, profession or occupation carried on in this state;

(C) a business, trade, profession or occupation carried on partly within and partly without this state as determined by the uniform division of income for tax purposes act as set forth in K.S.A. 79-3271 through 79-3293, and amendments thereto;

(D) the distributive share of partnership income, gain, loss and deduction determined under this section as if the partnership were a nonresident individual;

(E) the share of estate or trust income, gain, loss and deduction determined under K.S.A. 79-32,137, and amendments thereto;

(F) prizes won from lottery games conducted by the Kansas lottery;

(G) any winnings from parimutuel wagering derived from the conduct of parimutuel activities within this state; or

(H) income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property to the extent that such income is from property employed in a trade, business, profession or occupation carried on in Kansas. A nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of such dealer's trade or business, shall not be deemed to carry on a business, trade, profession or occupation in Kansas solely by reason of the purchase and sale of property for such nonresident's own account.

(2) "Modified Kansas source income" does not include:

(A) Compensation paid by the United States for service in the armed forces of the United States, performed during an induction period by an individual not domiciled in this state; or

(B) such individual's share of distributed or undistributed taxable income or net operating loss of a corporation which is an electing small business corporation unless an agreement is filed as provided in K.S.A. 79-32,139, and amendments thereto, in which event, the "modified Kansas source income" of such nonresident individual shall include such individual's share of such corporation's distributed and undistributed taxable income or net operating loss as such share is determined under the internal revenue code only to the extent, however, that such income, gain or loss is at the corporate level, derived from sources within Kansas.

Sec. 34. K.S.A. 59-3404 and K.S.A. 2022 Supp. 58a-411 and 79-32,109 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 4, after "trust" by inserting "; authorizing modification of a noncharitable irrevocable trust to provide that the rule against perpetuities is inapplicable; providing that the Kansas uniform statutory rule against perpetuities is inapplicable to trusts under certain circumstances; modifying the definition of resident trust in the Kansas income tax act; amending K.S.A. 59-3404 and K.S.A. 2022 Supp. 58a-411 and 79-32,109 and repealing the existing sections"; and the bill be passed as amended.

HB 2216 be amended on page 3, in line 17, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

On motion of Senator Alley, the Senate adjourned until 10:00 a.m., Tuesday, March 28, 2023.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

