

Journal of the Senate

FORTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 16, 2021, 2:30 p.m.

The Senate was called to order by Vice President Rick Wilborn.

The roll was called with 39 senators present.

Senator Suellentrop was excused.

Invocation by Reverend Cecil T. Washington:

“A Very Present Help At ALL Times!”
Psalm 46:1-3

Lord, God, Creator of Heaven and earth, You are Lord of Lords and King of Kings. Truly, You are God, and there is none other! Your Word says, in Psalm 46:1, that as our God You are always there for us. When the issues of life are wearing on us, You're there. You feed us when we're hungry. You comfort us when we're sad. You strengthen us when we're weary. Like the air in a balloon keeps it from collapsing, You keep us. You keep us from absolute breakdowns.

When our friends and associates, see the smiles we wear on our faces, You see the pain and disappointments we struggle with on the inside. When our faith is feeble and faltering, when it's uncertain and shaky like jello, You step in and solidify it. You bolster our faith. You fortify our faith in You. When we just can't see You, because You are Spirit, You do something that we can see, which reveals Your faithful presence, and reinforces our faith.

When we face despair, You give us a glimmer of hope to keep us from giving up. You provide us with Your direction to keep us from total confusion. And all through the blessed privilege of prayer.

So Lord, keep us mindful to continue in prayer. To Your glory and honor, to our good, and to the good of Your people. I thank You again for the privilege, power and pleasure of prayer, in Jesus' Name, Amen!

The Pledge of Allegiance was led by Vice President Wilborn.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 298, AN ACT concerning the uniform controlled substances act; relating to substances included in schedules I, II, IV and V; amending K.S.A. 65-4107, 65-4111 and 65-4113 and K.S.A. 2020 Supp. 65-4105 and repealing the existing sections, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 296**.

Local Government: **SB 297**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2219**, **HB 2287**.

The House adopts the Conference Committee report on **SB 40**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2219, **HB 2287** were thereupon introduced and read by title.

The Senate recessed until the sound of the gavel.

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

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 40** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee of the Whole amendments, as follows:

On page 1, by striking all in lines 11 through 32;

By striking all on pages 2 through 28;

On page 29, by striking all in lines 1 through 22 and inserting:

"New Section 1. (a) (1) During the state of disaster emergency related to the COVID-19 health emergency described in K.S.A. 2020 Supp. 48-924b, and amendments thereto, only the board of education responsible for the maintenance, development and operation of a school district shall have the authority to take any action, issue any order or adopt any policy made or taken in response to such disaster emergency that affects the operation of any school or attendance center of such school district, including, but not limited to, any action, order or policy that:

(A) Closes or has the effect of closing any school or attendance center of such school district;

(B) authorizes or requires any form of attendance other than full-time, in-person attendance at a school in the school district, including, but not limited to, hybrid or remote learning; or

(C) mandates any action by any students or employees of a school district while on school district property.

(2) An action taken, order issued or policy adopted by the board of education of a school district pursuant to paragraph (1) shall only affect the operation of schools under the jurisdiction of the board and shall not affect the operation of nonpublic schools.

(3) During any such disaster emergency, the state board of education, the governor, the department of health and environment, a local health officer, a city health officer or any other state or local unit of government may provide guidance, consultation or other assistance to the board of education of a school district but shall not take any action

related to such disaster emergency that affects the operation of any school or attendance center of such school district pursuant to paragraph (1).

(b) Any meeting of a board of education of a school district discussing an action, order or policy described in this section, including any hearing by the board under subsection (c), shall be open to the public in accordance with the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, and may be conducted by electronic audio-visual communication when necessary to secure the health and safety of the public, the board and employees.

(c) (1) An employee, a student or the parent or guardian of a student aggrieved by an action taken, order issued or policy adopted by the board of education of a school district pursuant to subsection (a)(1), or an action of any employee of a school district violating any such action, order or policy, may request a hearing by such board of education to contest such action, order or policy within 30 days after the action was taken, order was issued or policy was adopted by the board of education. Any such request shall not stay or enjoin such action, order or policy.

(2) Upon receipt of a request under paragraph (1), the board of education shall conduct a hearing within 72 hours of receiving such request for the purposes of reviewing, amending or revoking such action, order or policy. The board shall issue a decision within seven days after the hearing is conducted.

(3) The board of education may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(d) (1) An employee, a student or the parent or guardian of a student aggrieved by a decision of the board of education under subsection (c)(2) may file a civil action in the district court of the county in which such party resides or in the district court of Shawnee county, Kansas, within 30 days after such decision is issued by the board. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds the action taken, order issued or policy adopted by the board of education is narrowly tailored to respond to the state of disaster emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested action taken, order issued or policy adopted by the board of education that applies beyond the county in which the petition was filed.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

New Sec. 2. (a) (1) During the state of disaster emergency related to the COVID-19 health emergency described in K.S.A. 2020 Supp. 48-924b, and amendments thereto, only the governing body of a community college, as established pursuant to K.S.A. 71-201, and amendments thereto, or the governing body of a technical college, as established pursuant to K.S.A. 74-32,452, and amendments thereto, shall have the authority to take any action, issue any order or adopt any policy made or taken in

response to such disaster emergency that affects the operation of the community college or technical college governed by such governing body, including, but not limited to, any action, order or policy that:

- (A) Closes or has the effect of closing any community college or technical college;
- (B) authorizes or requires any form of attendance at any community college or technical college; or
- (C) mandates any action by any students or employees of a community college or technical college while on college property.

(2) During any such disaster emergency, the state board of regents, the governor, the department of health and environment, a local health officer, a city health officer, the Kansas association of community college trustees, the Kansas technical college association or any other state or local unit of government may provide guidance, consultation or other assistance to the governing body of a community college or technical college, but shall not take any action related to such disaster emergency that affects the operation of any such college.

(b) Any meeting of a governing body of a community college or technical college discussing an action, order or policy described in this section, including any hearing by such governing body under subsection (c), shall be open to the public in accordance with the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, and may be conducted by electronic audio-visual communication when necessary to secure the health and safety of the public, the governing body and employees.

(c) (1) An employee or a student aggrieved by an action taken, order issued or policy adopted by the governing body of a community college or technical college pursuant to subsection (a)(1), or an action of any employee of such college violating any such action, order or policy, may request a hearing by such governing body to contest such action, order or policy. Any such request shall not stay or enjoin such action, order or policy.

(2) Upon receipt of a request under paragraph (1), the governing body shall conduct a hearing within 72 hours of receiving such request for the purposes of reviewing, amending or revoking such action, order or policy. The governing body shall issue a decision within seven days after the hearing is conducted.

(3) The governing body may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(d) (1) An employee or a student aggrieved by a decision of the governing body under subsection (c)(2) may file a civil action in the district court of the county in which such party resides or in the district court of Shawnee county, Kansas, within 30 days after such decision is issued by the governing body. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds the action taken, order issued or policy adopted by the governing body is narrowly tailored to respond to the state of disaster emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the

contested action taken, order issued or policy adopted by the governing body that applies beyond the county in which the petition was filed.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

Sec. 3. K.S.A. 46-1201 is hereby amended to read as follows: 46-1201. (a) There is hereby established the legislative coordinating council which shall have ~~seven~~ eight members. Such members shall be the president of the senate, the speaker of the house of representatives, ~~the vice president of the senate,~~ the speaker pro tem of the house of representatives, the majority leader of the senate, the majority leader of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives.

(b) In even-numbered years, the speaker of the house of representatives shall be ~~chairman~~ chairperson of the legislative coordinating council, and the president of the senate shall be ~~vice chairman thereof~~ vice chairperson. In odd-numbered years, the president of the senate shall be ~~chairman~~ chairperson of the legislative coordinating council, and the speaker shall be ~~vice chairman thereof~~ vice chairperson.

(c) The legislative coordinating council shall meet at least once each month in the interim between legislative sessions. Such council shall meet on the call of ~~its chairman~~ the chairperson or any three members of the council. The director of legislative administrative services, director of legislative research, revisor of statutes and each member of the legislature shall be given notice of each meeting of the council by ~~its chairman~~ the chairperson, except in cases of emergency. Each such notice shall state the date, time and place of the meeting. The ~~chairman~~ chairperson also shall cause minutes to be prepared for each meeting of the council, and a copy thereof shall be sent to each person who is required to receive notice of the council's meetings by this subsection. It shall not be necessary to transmit with such minutes any accompanying documents for any item of business, but the minutes shall indicate whether there are supportive documents for any item of business, the nature of such documents and where they are filed or stored.

Sec. 4. K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-924. (a) The governor shall be responsible for meeting the dangers to the state and people presented by disasters.

(b) (1) Subject to the provisions of K.S.A. 2020 Supp. 48-924b, and amendments thereto, the governor, upon finding that a disaster has occurred or that occurrence or the threat thereof is imminent, shall issue a proclamation declaring a state of disaster emergency.

(2) In addition to or instead of the proclamation authorized by K.S.A. 47-611, and amendments thereto, the governor, upon a finding or when notified pursuant to K.S.A. 47-611, and amendments thereto, that a quarantine or other regulations are necessary to prevent the spread among domestic animals of any contagious or infectious disease, may issue a proclamation declaring a state of disaster emergency. In addition to or instead of any actions pursuant to the provisions of K.S.A. 2-2114, and amendments thereto, the governor, upon a finding or when notified pursuant to K.S.A. 2-2112 et seq., and amendments thereto, that a quarantine or other regulations are necessary to prevent the spread among plants, raw agricultural commodities, animal feed or processed food of any contagious or infectious disease, may issue a proclamation declaring a state of

disaster emergency.

(3) The state of disaster emergency so declared shall continue until the governor finds that the threat or danger of disaster has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist. Upon making such findings the governor shall terminate the state of disaster emergency by proclamation, but except as provided in paragraph (4), no state of disaster emergency may continue for longer than 15 days unless ratified by concurrent resolution of the legislature, with the single exception that upon specific application by the governor to the state finance council legislative coordinating council and an affirmative vote of a majority five of the legislative members thereof, a state of disaster emergency may be extended ~~once for a specified period not to exceed 30 days beyond such 15-day period~~ periods not to exceed 30 days each.

(4) If the state of disaster emergency is proclaimed pursuant to paragraph (2), the governor shall terminate the state of disaster emergency by proclamation within 15 days, unless ratified by concurrent resolution of the legislature, except that when the legislature is not in session and upon specific application by the governor to the state finance legislative coordinating council and an affirmative vote of a majority of the legislative five members thereof, a state of disaster emergency may be extended for a specified period not to exceed 30 days. The state finance legislative coordinating council may authorize additional extensions of the state of disaster emergency by ~~a unanimous~~ an affirmative vote of ~~the legislative five~~ members thereof for specified periods not to exceed 30 days each. Such state of disaster emergency shall be terminated on the 15th day of the next regular legislative session following the initial date of the state of disaster emergency unless ratified by concurrent resolution of the legislature.

(5) The state of disaster emergency described in K.S.A. 2020 Supp. 48-924b, and amendments thereto, shall terminate ~~on September 15, 2020~~, as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto, except that when the legislature is not in session or is adjourned during session for three or more days, and upon specific application by the governor to the state finance legislative coordinating council and an affirmative vote of at least six of the legislative members of the council five members thereof, this state of disaster emergency may be extended for specified periods not to exceed 30 days each. ~~No such extension granted by the state finance council shall continue past March 31, 2021.~~

(6) At any time, the legislature by concurrent resolution may require the governor to terminate a state of disaster emergency. Upon such action by the legislature, the governor shall issue a proclamation terminating the state of disaster emergency.

(7) Any proclamation declaring or terminating a state of disaster emergency ~~which that~~ is issued under this ~~subsection~~ section shall indicate the nature of the disaster, the area or areas of the state threatened or affected by the disaster and the conditions ~~which that~~ have brought about, or ~~which that~~ make possible the termination of, the state of disaster emergency. Each such proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent the same, each such proclamation shall be filed promptly with the division of emergency management, the office of the secretary of state and each city clerk or county clerk, as the case may be, in the area or areas of the state to which such proclamation applies.

(c) In the event of the absence of the governor from the state or the existence of any constitutional disability of the governor, an officer specified in K.S.A. 48-1204, and amendments thereto, in the order of succession provided by that section, may issue a proclamation declaring a state of disaster emergency in the manner provided in and subject to the provisions of subsection ~~(a)~~ (b). During a state of disaster emergency declared pursuant to this subsection, such officer may exercise the powers conferred upon the governor by K.S.A. 48-925, and amendments thereto. If a preceding officer in the order of succession becomes able and available, the authority of the officer exercising such powers shall terminate and such powers shall be conferred upon the preceding officer. Upon the return of the governor to the state or the removal of ~~any~~ the constitutional disability of the governor, the authority of an officer to exercise the powers conferred by this section shall terminate immediately and the governor shall resume the full powers of the office. Any such state of disaster emergency and any actions taken by an officer under this subsection shall continue and shall have full force and effect as authorized by law unless modified or terminated by the governor in the manner prescribed by law.

(d) A proclamation declaring a state of disaster emergency shall activate the disaster response and recovery aspects of the state disaster emergency plan and of any local and interjurisdictional disaster plans applicable to the ~~political subdivisions or areas of the state and any political subdivisions thereof~~ affected by the proclamation. Such proclamation shall ~~be~~ constitute the authority necessary for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, materials or facilities assembled, stockpiled or arranged to be made available pursuant to this act during a disaster.

(e) The governor, when advised pursuant to K.S.A. 74-2608, and amendments thereto, that conditions indicative of drought exist, ~~shall be~~ is authorized to declare by proclamation that a state of drought exists. This declaration of a state of drought can be for specific areas or communities, can be statewide or for specific water sources and shall effect immediate implementation of drought contingency plans contained in state approved conservation plans, including those for state facilities.

Sec. 5. K.S.A. 2020 Supp. 48-924b, as amended by section 3 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-924b. (a) The state of disaster emergency that was declared by the governor pursuant to K.S.A. 48-924, and amendments thereto, as a result of the COVID-19 health emergency, by proclamation on March 12, 2020, which was ratified and continued in force and effect through May 1, 2020, by 2020 House Concurrent Resolution No. 5025, adopted by the house of representatives with the senate concurring therein on March 19, 2020, declared by proclamation on April 30, 2020, which was extended and continued in existence by the state finance council on May 13, 2020, for an additional 12 days through May 26, 2020, and declared by proclamation on May 26, 2020, which was ratified and continued in existence through September 15, 2020, by this section, extended and continued in existence by the state finance council on September 11, 2020, for an additional 30 days through October 15, 2020, extended and continued in existence by the state finance council on October 7, 2020, for an additional 30 days through November 15, 2020, extended and continued in existence by the state finance council on November 13, 2020, for an additional 30 days through December 15, 2020, extended and continued in existence by the state finance council on December 11, 2020, for an additional 26 days

through January 10, 2021, ~~and~~ extended and continued in existence by the state finance council on January 6, 2021, for an additional 16 days through January 26, 2021, and ratified and continued in existence through March 31, 2021, by this section for all 105 counties of Kansas, is hereby ratified and continued in existence from March 12, 2020, through ~~March 31~~ May 28, 2021.

(b) The governor shall not proclaim any new state of disaster emergency related, in whole or in part, to the COVID-19 health emergency, including, but not limited to, any economic, financial or other crisis caused by such emergency, during 2020 or 2021, unless the governor makes specific application to the ~~state finance~~ legislative coordinating council and an affirmative vote of ~~at least six of the legislative five~~ members of the council approve thereof ~~approves~~ such action by the governor.

(c) Notwithstanding any other provision of law to the contrary, all executive orders issued during the state of disaster emergency ratified and continued in existence pursuant to this section related to the COVID-19 health emergency are hereby revoked on March 31, 2021, and shall be null and void. Any new executive orders issued during the state of disaster emergency ratified and continued in existence pursuant to subsection (a) or during a state of disaster emergency authorized pursuant to subsection (b) that are related to the COVID-19 health emergency shall be subject to revocation by the legislature or the legislative coordinating council pursuant to K.S.A. 48-925, and amendments thereto.

Sec. 6. K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-925. (a) During any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, the governor shall be commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement, embodied in appropriate executive orders or in rules and regulations of the adjutant general, but nothing ~~herein~~ shall restrict the authority of the governor to do so by executive orders issued at the time of a disaster.

(b) Under the provisions of this act and for the implementation of this act, the governor may issue executive orders to exercise the powers conferred by subsection (c) that have the force and effect of law during the period of a state of disaster emergency declared under K.S.A. 48-924(b), and amendments thereto, or as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto. ~~Within 24 hours of the issuance of any such order, The governor chairperson of the legislative coordinating council shall call a meeting of the state finance council to occur within 24 hours of the issuance of an executive order issued pursuant to this section for the purposes of reviewing such order. Such executive orders shall be null and void after the period of a state of disaster emergency has ended. Such executive orders may be revoked at any time by concurrent resolution of the legislature or, when the legislature is not in session or is adjourned during session for three or more days, such orders may be revoked by the legislative coordinating council with the affirmative vote of five members thereof.~~

(c) Except as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto, during a state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, in addition to any other powers conferred upon the governor by law and subject to the provisions of ~~subsection (d), (e) and (f)~~ subsections (d) and (e), the governor may:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for

conduct of state business, or the orders or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statute, order or rule and regulation would prevent, hinder or delay in any way necessary action in coping with the disaster;

(2) utilize all available resources of the state government and of each political subdivision as reasonably necessary to cope with the disaster;

(3) transfer the supervision, personnel or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities;

(4) subject to any applicable requirements for compensation under K.S.A. 48-933, and amendments thereto, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster;

(5) direct and compel the evacuation of all or part of the population from any area of the state stricken or threatened by a disaster, if the governor deems this action necessary for the preservation of life or other disaster mitigation, response or recovery;

(6) prescribe routes, modes of transportation and destinations in connection with such evacuation;

(7) control ingress and egress of persons and animals to and from a disaster area, the movement of persons and animals within the area and the occupancy by persons and animals of premises therein;

(8) suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;

(9) make provision for the availability and use of temporary emergency housing;

(10) require and direct the cooperation and assistance of state and local governmental agencies and officials; and

(11) perform and exercise such other functions, powers and duties in conformity with the constitution and the bill of rights of the state of Kansas and with the statutes of the state of Kansas, except any regulatory statute specifically suspended under the authority of subsection (c)(1), as are necessary to promote and secure the safety and protection of the civilian population.

(d) ~~The governor shall not have the power or authority to temporarily or permanently seize, or authorize seizure of, any ammunition or to suspend or limit the sale, dispensing or transportation of firearms or ammunition limit or otherwise restrict the sale, purchase, transfer, ownership, storage, carrying or transporting of firearms or ammunition, or any component or combination thereof, including any components or combination thereof used in the manufacture of firearms or ammunition, or seize or authorize the seizure of any firearms or ammunition, or any component or combination thereto, except as otherwise permitted by state or federal law pursuant to subsection (c)~~ (8) or any other executive authority.

~~(e) Notwithstanding any provision of this section to the contrary and pursuant to the governor's state of disaster emergency proclamation issued on May 26, 2020, the governor shall not have the power or authority to restrict businesses from operating or to restrict the movement or gathering of individuals. The provisions of this subsection shall expire on September 15, 2020.~~

(f) The governor shall not have the power under the provisions of the Kansas emergency management act or the provisions of any other law to alter or modify any provisions of the election laws of the state including, but not limited to, the method by

which elections are conducted or the timing of such elections.

~~(g)~~(f) The governor shall exercise the powers conferred by subsection (c) by issuance of executive orders under subsection (b). Each executive order issued pursuant to the authority granted by subsection (b) shall specify the provision or provisions of subsection (c) by specific reference to each paragraph of subsection (c) that confers the power under which the executive order was issued. The adjutant general, subject to the direction of the governor, shall administer such executive orders.

~~(h)~~(g) (1) Any party aggrieved by an executive order issued pursuant to this section that has the effect of substantially burdening or inhibiting the gathering or movement of individuals or the operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit, may file a civil action in the district court of the county in which such party resides or in the district court of Shawnee county, Kansas, within 30 days after the issuance of such executive order. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds such executive order is narrowly tailored to respond to the state of disaster emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested executive order that applies beyond the county in which the petition was filed.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

~~(h)~~ (1) The board of county commissioners of any county may issue an order relating to public health that includes provisions that are less stringent than the provisions of an executive order effective statewide issued by the governor. Any board of county commissioners issuing such an order must make the following findings and include such findings in the order:

~~(A)~~ (A) The board has consulted with the local health officer or other local health officials regarding the governor's executive order;

~~(B)~~ (B) following such consultation, implementation of the full scope of the provisions in the governor's executive order are not necessary to protect the public health and safety of the county; and

~~(C)~~ (C) all other relevant findings to support the board's decision.

(2) If the board of county commissioners of a county issues an order pursuant to paragraph (1), such order shall operate in the county in lieu of the governor's executive order.

Sec. 7. K.S.A. 2020 Supp. 48-925a, as amended by section 6 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-925a. (a) During any state of disaster emergency related to the COVID-19 public health emergency declared pursuant to K.S.A. 48-924, and amendments thereto, the governor may not issue an order that substantially burdens or inhibits the gathering or movement of individuals or operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit.

(b) Any order issued that violates or exceeds the restrictions provided in subsection (a) shall not have the force and effect of law during the period of a state of disaster emergency declared under K.S.A. 48-924(b), and amendments thereto, and any such order shall be null and void.

~~(c) The provisions of this section shall expire on March 31, 2021.~~

Sec. 8. K.S.A. 2020 Supp. 48-932 is hereby amended to read as follows: 48-932.

(a) A state of local disaster emergency may be declared by the ~~chairman~~ chairperson of the board of county commissioners of any county, or by the mayor or other principal executive officer of each city of this state having a disaster emergency plan, upon a finding by such officer that a disaster has occurred or the threat thereof is imminent within such county or city. No state of local disaster emergency shall be continued for a period in excess of seven days or renewed, except with the consent of the board of county commissioners of such county or the governing body of such city. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed with the county clerk or city clerk. Any such declaration may be reviewed, amended or revoked by the board of county commissioners or the governing body of the city, respectively, at a meeting of such governing body.

(b) In the event of the absence of the ~~chairman~~ chairperson of the board of county commissioners from the county or the incapacity of such ~~chairman~~ chairperson, the board of county commissioners, by majority action of the remaining members thereof, may declare a state of local disaster emergency in the manner provided in and subject to the provisions of subsection (a). In the event of the absence of the mayor or other principal executive officer of a city from the city or the incapacity of such mayor or officer, the governing body of the city, by majority action of the remaining members thereof, may declare a state of local disaster emergency in the manner provided in and subject to the provisions of subsection (a). Any state of local disaster emergency and any actions taken pursuant to applicable local and interjurisdictional disaster emergency plans, under this subsection shall continue and have full force and effect as authorized by law unless modified or terminated in the manner prescribed by law.

(c) The declaration of a local disaster emergency shall activate the response and recovery aspects of any and all local and interjurisdictional disaster emergency plans which are applicable to such county or city, and shall initiate the rendering of aid and assistance thereunder.

(d) No interjurisdictional disaster agency or any official thereof may declare a local disaster emergency, unless expressly authorized by the agreement pursuant to which the agency functions. However, an interjurisdictional disaster agency shall provide aid and services in accordance with the agreement pursuant to which it functions in the case of a state of local disaster emergency declared under subsection (a).

(e) (1) Any party aggrieved by an action taken by a local unit of government pursuant to this section that has the effect of substantially burdening or inhibiting the gathering or movement of individuals or the operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit, may file a civil action in the district court of the county in which such action was taken within 30 days after such action is taken. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless

the court finds such action is narrowly tailored to respond to the state of local disaster emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested action that applies beyond the county in which the action was taken.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

Sec. 9. K.S.A. 2020 Supp. 48-939 is hereby amended to read as follows: 48-939.

(a) (1) Except as provided in paragraph (2), a person who intentionally violates any provision of this act, any rule and regulation adopted by the adjutant general under this act or any lawful order or proclamation issued under authority of this act whether pursuant to a proclamation declaring a state of disaster emergency under K.S.A. 48-924, and amendments thereto, or a declaration of a state of local disaster emergency under K.S.A. 48-932, and amendments thereto, may incur a civil penalty in an amount not to exceed \$2,500 per violation. Each penalty may be assessed in addition to any other penalty provided by law.

(2) A knowing violation of an executive order issued pursuant to K.S.A. 48-925, and amendments thereto, that mandates a curfew or prohibits public entry into an area affected by a disaster is a class A nonperson misdemeanor.

(b) ~~Violations of this section subsection (a)(1)~~ shall be enforced through an action brought under chapter 60 of the Kansas Statutes Annotated, and amendments thereto, by the attorney general or the county or district attorney in the county in which the violation took place. Civil penalties sued for and recovered by the county or district attorney shall be paid into the general fund of the county where the proceedings were instigated.

(c) The attorney general or any county or district attorney may bring an action to enjoin, or to obtain a restraining order, against a person who has violated, is violating or is otherwise likely to violate this act.

Sec. 10. K.S.A. 2020 Supp. 48-949 is hereby amended to read as follows: 48-949. As used in ~~this~~ the Kansas intrastate emergency mutual aid act:

(a) "Division" means the division of emergency management within the office of the adjutant general.

(b) "Emergency responder" means any person in the public or private sector who: (1) Has special skills, qualifications, training, knowledge and experience which would be beneficial to a participating political subdivision in response to a locally-declared emergency as defined in any applicable law or ordinance or authorized drill or exercises; and (2) is requested or authorized, or both, to respond. An emergency responder may or may not be required to possess a license, certificate, permit or other official recognition for the emergency responder's expertise in a particular field or area of knowledge. "Emergency responder" ~~may include~~ includes, but is not limited to, the following: Law enforcement officers, ~~fire fighters~~ firefighters, 911 call center public safety telecommunicators, emergency medical services personnel, physicians, nurses, physician assistants, public health personnel, emergency management personnel, public works personnel and persons with skills or training in operating specialized equipment

or other skills needed to provide aid in a declared emergency.

Sec. 11. K.S.A. 65-101 is hereby amended to read as follows: 65-101. (a) The secretary of health and environment shall exercise general supervision of the health of the people of the state and may:

(1) Where authorized by any other statute, require reports from appropriate persons relating to the health of the people of the state so a determination of the causes of sickness and death among the people of the state may be made through the use of these reports and other records;

(2) investigate the causes of disease, including especially, epidemics and endemics, the causes of mortality and effects of locality, employments, conditions, food, water supply, habits and other circumstances affecting the health of the people of this state and the causes of sickness and death;

(3) advise other offices and agencies of government concerning location, drainage, water supply, disposal of excreta and heating and ventilation of public buildings;

(4) make sanitary inspection and survey of such places and localities as the secretary deems advisable;

(5) take action to prevent the introduction of infectious or contagious disease into this state and to prevent the spread of infectious or contagious disease within this state;

(6) provide public health outreach services to the people of the state including educational and other activities designed to increase the individual's awareness and appropriate use of public and other preventive health services.

(b) The secretary of health and environment may adopt rules and regulations necessary to carry out the provisions of ~~paragraphs (1) through (6), inclusive, of subsection (a).~~ In addition to other remedies provided by law, the secretary is authorized to apply to the district court, and such court shall have jurisdiction upon a hearing and for cause shown to grant a temporary or permanent injunction to compel compliance with such rules and regulations.

(c) In the event of a state of disaster emergency declared by the governor pursuant to K.S.A. 48-924, and amendments thereto, or a state of local disaster emergency declared pursuant to K.S.A. 48-932, and amendments thereto, the legislature may revoke an order issued by the secretary to take action related to such disaster emergency as provided in this subsection. Such order may be revoked at any time by concurrent resolution of the legislature or, when the legislature is not in session or is adjourned during session for three or more days, such order may be revoked by the legislative coordinating council with the affirmative vote of five members thereof.

Sec. 12. K.S.A. 2020 Supp. 65-201 is hereby amended to read as follows: 65-201. (a) The board of county commissioners of each county shall act as the county board of health for the county. Each county board shall appoint a person licensed to practice medicine and surgery, preference being given to persons who have training in public health, who shall serve as the local health officer and who shall act in an advisory capacity to the county board of health. The appointing authority of city-county, county or multicounty health units with less than 100,000 population may appoint a qualified local health program administrator as the local health officer if a person licensed to practice medicine and surgery or person licensed to practice dentistry is designated as a consultant to direct the administrator on program and related medical and professional matters. The local health officer or local health program administrator shall hold office at the pleasure of the board.

(b)(1) Except as provided in paragraph (2), any order issued by the local health officer, including orders issued as a result of an executive order of the governor, may be reviewed, amended or revoked by the board of county commissioners of the county affected by such order at a meeting of the board. Any order reviewed or amended by the board shall include an expiration date set by the board and may be amended or revoked at an earlier date by a majority vote of the board.

(2) If a local health officer determines it is necessary to issue an order mandating the wearing of face masks, limiting the size of gatherings of individuals, curtailing the operation of business, controlling the movement of the population of the county or limiting religious gatherings, the local health officer shall propose such an order to the board of county commissioners. At the next regularly scheduled meeting of the board or at a special meeting of the board, the board shall review such proposed order and may take any action related to the proposed order the board determines is necessary. The order shall become effective if approved by the board or, if the board is unable to meet, if approved by the chairperson of the board or the vice chairperson of the board in the chairperson's absence or disability.

(c) The board of county commissioners in any county having a population of less than 15,000 may contract with the governing body of any hospital located in such county for the purpose of authorizing such governing body of the hospital to supply services to a county board of health.

(d)(1) Any party aggrieved by an order issued pursuant to subsection (b)(2) may file a civil action in the district court of the county in which the order was issued within 30 days after such order is issued. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds such order is narrowly tailored to the purpose stated in the order and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested action that applies beyond the county in which the action was taken.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

Sec. 13. K.S.A. 75-3711 is hereby amended to read as follows: 75-3711. (a) The governor shall:

(1) Hear and determine appeals by any state agency from final decisions or final actions of the secretary of administration or the director of computer services.

(2) Approve, modify and approve or reject proposed rules and regulations submitted by the secretary of administration as provided in K.S.A. 75-3706, and amendments thereto.

(3) Make allocations to, and approve expenditures by a state agency, from any appropriations to the governor for that purpose, of funds for unanticipated and unbudgeted needs, under guidelines and limitations prescribed by K.S.A. 75-3711c, and amendments thereto, or other legislative enactment enhancing or altering K.S.A. 75-3711c, and amendments thereto.

(4) Exercise powers and perform functions specified for the state finance council or governor by the Kansas civil service act.

(b) (1) The chairperson and five or more other members of the state finance council shall constitute a quorum. Approval by the governor and approval by a majority vote of the legislative members of the state finance council shall govern, unless a unanimous vote is required by statute in any particular case.

(2) Whenever a matter is to be acted on by the state finance council and a unanimous vote is required to approve the particular matter by K.S.A. ~~48-924~~, 75-3713, 75-3713b or 75-3713c, and amendments thereto, or by any other statute, each member who is unable to attend the meeting at which the matter was voted on, may vote on the motion by written absentee vote in the manner prescribed by this subsection. In any such case, an absent member may vote on the motion by ~~(A)~~ writing the member's signature on a copy of the resolution setting forth the matter that is the subject of the motion, writing the date and indicating the member's vote for or against adoption of the resolution; and ~~(B)~~ submitting the copy of the resolution bearing the absentee vote to the secretary of the state finance council either before or not more than 10 days after the date of the meeting at which the motion was voted on. The secretary of the state finance council shall maintain each copy of a resolution bearing an absentee vote as part of the minutes and records of the meeting at which the motion on the resolution was voted on. The secretary shall indicate in the minutes of the meeting the name of each member voting in writing by absentee vote and the date on which the absentee vote was submitted to the secretary. If a particular matter requiring a unanimous vote receives the affirmative vote of each member of the state finance council attending the meeting and the affirmative absentee vote pursuant to this subsection of each member not attending the meeting, then the matter shall be deemed to have received the unanimous vote of all members of the state finance council.

(c) Whenever statutes provide for any matter to receive state finance council action, ~~the same such matter~~ shall be made a matter of business before ~~said such~~ council, if and only if the matter is characterized as a legislative delegation, and in other such cases the governor shall exercise the function specified for the state finance council by applying the guidelines and limitations of K.S.A. 75-3711c, and amendments thereto, or other legislative enactment enhancing or altering ~~the same such function~~.

New Sec. 14. The provisions of this act are severable. If any portion of the act is declared unconstitutional or invalid, or the application of any portion of the act to any person or circumstance is held unconstitutional or invalid, the invalidity shall not affect other portions of the act that can be given effect without the invalid portion or application, and the applicability of such other portions of the act to any person or circumstance shall remain valid and enforceable.";

Also on page 29, in line 23, by striking all after "K.S.A."; by striking all in lines 24 and 25; in line 26, by striking all before "are" and inserting "46-1201, 65-101 and 75-3711 and K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021 Senate Bill No. 14, and 48-925, as amended by section 5 of 2021 Senate Bill No. 14, and K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021 Senate Bill No. 14, 48-924b, as amended by section 3 of 2021 Senate Bill No. 14, 48-925a, as amended by section 6 of 2021 Senate Bill No. 14, 48-925b, 48-932, 48-939, 48-949 and 65-201";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in

lines 2 through 6; in line 7, by striking all before the second "and" and inserting "governmental response to certain emergencies; prescribing powers, duties and functions of the board of education of each school district, the governing body of each community college and the governing body of each technical college related to the COVID-19 health emergency and establishing judicial review thereof; adding the vice president of the senate to the legislative coordinating council; modifying the procedure for the declaration and extension of a state of disaster emergency under the Kansas emergency management act; authorizing the legislative coordinating council and the legislature to take certain actions related to a state of disaster emergency; prohibiting certain actions by the governor related to the COVID-19 health emergency and revoking all executive orders related to such emergency on March 31, 2021; limiting powers granted to the governor during a state of disaster emergency; establishing judicial review for certain executive orders issued during a state of disaster emergency and certain actions taken by a local unit of government during a state of local disaster emergency; providing criminal penalties for a knowing violation of certain executive orders; adding 911 call center public safety telecommunicators and physician assistants to the definition of emergency responder; authorizing the legislature or the legislative coordinating council to revoke certain orders issued by the secretary of health and environment; limiting powers granted to local health officers related to certain orders and establishing judicial review thereof; amending K.S.A. 46-1201, 65-101 and 75-3711 and K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021 Senate Bill No. 14, and K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021 Senate Bill No. 14, 48-924b, as amended by section 3 of 2021 Senate Bill No. 14, 48-925a, as amended by section 6 of 2021 Senate Bill No. 14, 48-932, 48-939, 48-949 and 65-201"; in line 8, by striking "49-619" and inserting "2019 Supp. 48-925, as amended by section 5 of 2021 Senate Bill No. 14, and K.S.A. 2020 Supp. 48-925b";

And your committee on conference recommends the adoption of this report.

FRED PATTON

BRAD RALPH

JOHN CARMICHAEL

Conferees on part of House

KELLIE WARREN

RICHARD WILBORN

ETHAN CORSON

Conferees on part of Senate

Senator Warren moved the Senate adopt the Conference Committee Report on **SB 40**.

Upon the showing of five hands a Call of the Senate was requested.

On roll call, the vote was: Yeas 31; Nays 8; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Hawk, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Peck, Petersen, Pettey, Pittman, Ryckman, Sykes, Thompson, Ware, Warren, Wilborn.

Nays: Baumgardner, Haley, Hilderbrand, Olson, Pyle, Steffen, Straub, Tyson.

Absent or Not Voting: Suellentrop.
The Call was lifted.
The Conference Committee Report was adopted.

EXPLANATION OF VOTE

Mr. President: I vote "NO" because our failed pandemic response cost us individual liberties as never before. Allowing unelected officials and even elected officials to force shutdowns and interventions upon us individually and as a society accomplished nothing when compared to states that placed a premium on individual liberty. I pray that the pain experienced by Kansans is not lost to posterity secondary to politics.—MARK STEFFEN

Mr. President: Since the beginning of this pandemic, we have seen an escalating and prolonged suspension, and abridgment of many constitutional rights. True scientific evidence was overlooked in favor of public health edicts that shifted a number of times during this pandemic, based partially on the whims of unelected officials. Last June, we passed **HB 2016**, an important step forward in providing checks and balances and limitations on the governor's power as it relates to emergencies. **SB 40** does implement more checks and balances, providing due process, ensuring the buck stops with elected officials, preventing the closure of businesses and churches by the governor, and ending the current mandates on March 31st. Do I wish the bill would go further, absolutely! I believe the core responsibility of state government is to protect the liberty of the people, and do not believe any unit of government should be able to impose the lockdowns, restrictions, and mask mandates we have seen in the last year. At least this bill represents a step forward towards getting us back to normal, but I believe there will still need to be more work ahead. I vote "YES."—MIKE THOMPSON

Senators Erickson, Masterson and Peck request the record to show they concur with the "Explanation of Vote" offered by Senator Thompson on **SB 40**.

Mr. President: I reluctantly vote "NO" on the Conference Committee Report for **SB 40**; regarding the Kansas Emergency Management Act, a Kansas response to managing a global ("COVID-19") pandemic. The conference committee's considerable work to reach this Report's compromises is what causes my "NO" vote to be hesitant and, even, "regrettably" for they have done very well. I've been here in this Legislature longer than anyone in the Senate, through six (6) Gubernatorial (Graves; Sebelius; Parkinson; Brownback; Colyer; Kelly) administrations. Kansas has never before so needed to have an executive leader to be unrestrained to make unilateral, "universal" policies for the good of the whole; not fragmented, patchwork policies, when attempting through established best practices and protocols to reduce, quell, as expeditiously as possible, a viral pandemic which is so deadly. There is no doubt in my mind that this report is only to set parameters, indeed restrict a thoughtful, scientific-based Governor due to partisan reasons alone. I firmly believe that were our Governor a Republican that this Republican-dominated Legislature would affirm whatever plan(s) were presented without such "undue oversight." Plain irresponsible to play partisan politics with health and the lives of Kansans when we should collectively pull together behind executive leadership to support cohesive uniform policies.—DAVID HALEY

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 Baumgardner in the chair.

On motion of Senator Baumgardner the following report was adopted:

The committee report on **SB 267** recommending **Sub SB 267** be adopted, be amended by motion of Senator Tyson; on page 30, following line 5, by inserting:

"(f) During the fiscal year ending June 30, 2021, notwithstanding the provisions of any statute, in addition to the other purposes for which expenditures may be made from the scrap metal theft reduction fee fund for fiscal year 2021 by the attorney general as authorized by chapter 5 of the 2020 Session Laws of Kansas, this or other appropriation act of the 2021 regular session of the legislature, expenditures shall be made by the attorney general from the scrap metal theft reduction fee fund for fiscal year 2021 to reimburse scrap metal dealers, as defined in K.S.A. 50-6,109, and amendments thereto, in the amount of \$1,000 for each year such scrap metal dealers paid registration fees under the scrap metal theft reduction act and such act was not operative and to reimburse such scrap metal dealers for the costs of fingerprinting any such scrap metal dealer prior to July 1, 2020.

(g) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$1,292,926 from the state general fund to the scrap metal theft reduction fee fund of the attorney general."

Sub SB 267 be further amended by motion of Senator Tyson; on page 142, following line 2, by inserting:

"(s) During the fiscal year ending June 30, 2022, notwithstanding the provisions of K.S.A. 59-2968, and amendments thereto, or any other statute to the contrary:

(1) In addition to the other purposes for which expenditures may be made by the above agency from moneys appropriated from the state general fund or from any special revenue fund or funds as authorized by this or any other appropriation act of the 2021 regular session of the legislature, expenditures shall be made by such agency from such moneys to lift the moratorium on admissions to each state psychiatric hospital, as defined by K.S.A. 59-2946, and amendments thereto; and

(2) no expenditures shall be made by the above agency from moneys appropriated from the state general fund or from any special revenue fund or funds by this or any other appropriation act of the 2021 regular session of the legislature to impose a moratorium on admissions to any state psychiatric hospital, as defined by K.S.A. 59-2946, and amendments thereto.

Sec. 81.

**KANSAS DEPARTMENT FOR
AGING AND DISABILITY SERVICES**

(a) During the fiscal year ending June 30, 2023, notwithstanding the provisions of K.S.A. 59-2968, and amendments thereto, or any other statute to the contrary, no expenditures shall be made by the above agency from moneys appropriated from the state general fund or from any special revenue fund or funds by this or any other appropriation act of the 2021 or 2022 regular session of the legislature to impose a moratorium on admissions to any state psychiatric hospital, as defined by K.S.A. 59-2946, and amendments thereto.";

And by renumbering sections accordingly.

Sub SB 267 be further amended by motion of Senator Tyson, on page 267, following line 34, by inserting:

"Sec. 136. (a) (1) In addition to the other purposes for which expenditures may be made by any state agency named in this or other appropriation act of the 2021 regular session of the legislature from the moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2022 as authorized by this or other appropriation act of the 2021 regular session of the legislature, expenditures shall be made by each such state agency from moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2022 to implement and accomplish the following objectives on or before October 1, 2021, pursuant to K.S.A. 75-3718b, and amendments thereto:

(A) A program service inventory. Such inventory shall include, but not be limited to, the following:

(i) Identification of agency programs and subprograms by objective, function and purpose;

(ii) the state or federal statutory citation authorizing those programs, if any;

(iii) identification of programs that are mandatory versus discretionary;

(iv) a history of the programs, including interaction with other agency programs and objectives;

(v) state matching or other federal financial requirements;

(vi) prioritization of the level of all programs and subprograms; and

(vii) the consequence of not funding the program or subprogram.

(B) An integrated budget fiscal process. Such process shall institute common accounting procedures consistent with budget development, budget approval, budget submission, through actual expenditures by fund.

(C) A performance based budgeting system. Such budgeting system shall include, but not be limited to, the following:

(i) Incorporation of various outcome based performance measures, for state programs; and

(ii) enhancement of the capability to compare program effectiveness across multiple state and political boundaries.

(2) On or before November 15, 2021, the division of post audit shall review each state agency's program service inventory, integrated budget fiscal process and performance based budgeting system and shall determine and certify whether such state agency is or is not meeting such objectives. If the legislative post auditor certifies that a state agency has not met the objectives, the legislative post auditor shall send a copy of such certification noting that the state agency has not met the objectives to the director of accounts and reports. Upon receipt of such certification, the director of accounts and reports shall lapse an amount equal to 2% of moneys appropriated or reappropriated for such state agency for the fiscal year ending June 30, 2022, by this or other appropriation act of the 2021 regular session of the legislature from the state general fund. At the same time that any certification is made by the legislative post auditor to the director of accounts and reports under this section, the legislative post auditor shall deliver a copy of such certification to the director of the budget and director of legislative research.

(b) (1) In addition to the other purposes for which expenditures may be made by any state agency named in this or other appropriation act of the 2021 or 2022 regular

session of the legislature from the moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2023 as authorized by this or other appropriation act of the 2021 or 2022 regular session of the legislature, expenditures shall be made by each such state agency from moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2023 to implement and accomplish the following objectives on or before October 1, 2022, pursuant to K.S.A. 75-3718b, and amendments thereto:

(A) A program service inventory. Such inventory shall include, but not be limited to, the following:

(i) Identification of agency programs and subprograms by objective, function and purpose;

(ii) the state or federal statutory citation authorizing those programs, if any;

(iii) identification of programs that are mandatory versus discretionary;

(iv) a history of the programs, including interaction with other agency programs and objectives;

(v) state matching or other federal financial requirements;

(vi) prioritization of the level of all programs and subprograms; and

(vii) the consequence of not funding the program or subprogram.

(B) An integrated budget fiscal process. Such process shall institute common accounting procedures consistent with budget development, budget approval, budget submission, through actual expenditures by fund.

(C) A performance based budgeting system. Such budgeting system shall include, but not be limited to, the following:

(i) Incorporation of various outcome based performance measures, for state programs; and

(ii) enhancement of the capability to compare program effectiveness across multiple state and political boundaries.

(2) On or before November 15, 2022, the division of post audit shall review each state agency's program service inventory, integrated budget fiscal process and performance based budgeting system and shall determine and certify whether such state agency is or is not meeting such objectives. If the legislative post auditor certifies that a state agency has not met the objectives, the legislative post auditor shall send a copy of such certification noting that the state agency has not met the objectives to the director of accounts and reports. Upon receipt of such certification, the director of accounts and reports shall lapse an amount equal to 2% of moneys appropriated or reappropriated for such state agency for the fiscal year ending June 30, 2023, by this or other appropriation act of the 2021 or 2022 regular session of the legislature from the state general fund. At the same time that any certification is made by the legislative post auditor to the director of accounts and reports under this section, the legislative post auditor shall deliver a copy of such certification to the director of the budget and director of legislative research.

(c) The following items are exempt from and shall not be lapsed pursuant to this section:

(1) Any item of appropriation or reappropriation from the state general fund for fiscal year 2022 or fiscal year 2023 for debt service for payments made pursuant to contractual bond obligations;

(2) any item of appropriation or reappropriation from the state general fund for

fiscal year 2022 or fiscal year 2023 for the Kansas department for children and families, division of health care finance of the department of health and environment, department of corrections or the Kansas department for aging and disability services that are required to meet caseload obligations under the state medicaid plan, including general medical expenditures under KanCare and non-KanCare expenditures included in the consensus caseload estimating process or for the Kansas department for children and families to meet caseload obligations for temporary assistance for needy families, foster care and reintegration services contracts or adoption services contracts, as certified by the director of the budget to the director of accounts and reports for the purposes of this subsection; and

(3) any item of appropriation or reappropriation from the state general fund for fiscal year 2022 or fiscal year 2023 for a postsecondary educational institution that has implemented the performance agreement pursuant to K.S.A. 74-3202d, and amendments thereto."

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

On roll call, the vote was: Yeas 18; Nays 16; Present and Passing 3; Absent or Not Voting 3.

Yeas: Alley, Baumgardner, Claeys, Erickson, Fagg, Gossage, Hilderbrand, Kloos, Masterson, Peck, Petersen, Ryckman, Steffen, Straub, Thompson, Tyson, Warren, Wilborn.

Nays: Bowers, Corson, Dietrich, Faust-Goudeau, Francisco, Haley, Hawk, Holscher, Kerschen, Longbine, O'Shea, Olson, Pettey, Pittman, Sykes, Ware.

Present and Passing: Billinger, Holland, Pyle

Absent or Not Voting: Doll, McGinn, Suellentrop.

The amendment was adopted.

Sub SB 267 be further amended by motion of Senator Pyle; on page 219, following line 2, by inserting:

"(f) During the fiscal year ending June 30, 2022, in addition to the other purposes for which expenditures may be made from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2022 by the adjutant general as authorized by this or other appropriation act of the 2021 regular session of the legislature, the adjutant general shall make expenditures from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2022 for the purposes of preparing a report detailing the numerical amount and itemized costs of all equipment and supplies relating to the COVID-19 health emergency purchased or received by the adjutant general in each of the fiscal years 2020, 2021 and year-to-date 2022 and a list of all entities that requested any such COVID-19 equipment and supplies and the numerical amount and itemized costs of such COVID-19 equipment and supplies actually received by such entities from the adjutant general in each of the fiscal years 2020, 2021 and year-to-date 2022: *Provided*, That such report shall specifically list and identify each item and shall not be listed by category: *Provided further*, That such report shall be filed with the secretary of the senate and the chief clerk of the house of representatives on or before January 1, 2022."

Sub SB 267 be further amended by motion of Senator Pyle; on page 267, following line 34, by inserting:

"Sec. 136. During the fiscal years ending June 30, 2021, and June 30, 2022, after March 31, 2021, no state agency named in this or other appropriation act of the 2021

regular session of the legislature shall expend any moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal years 2021 and 2022 as authorized by chapter 5 of the 2020 Session Laws of Kansas, this or other appropriation act of the 2021 regular session of the legislature for the purposes of issuing or enforcing a statewide mask mandate unless the legislature expressly consents to, and approves of, a statewide mask mandate by an act of the legislature.";

And by renumbering sections accordingly

A ruling of the chair was requested as to the germaneness of the Pyle amendment. The chair ruled the amendment was germane to the bill.

Sub SB 267 be further amended by motion of Senator Holland; on page 267, following line 34, by inserting:

"Sec. 136. (a) In addition to the other purposes for which expenditures may be made by any state agency named in this or other appropriation act of the 2021 regular session of the legislature from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2022 as authorized by this or other appropriation act of the 2021 regular session of the legislature, expenditures are hereby authorized and directed to be made by each such state agency from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2022 to enroll and actively participate in e-verify for verification of employment eligibility of all employees whose employment commences after January 1, 2022.

(b) During the fiscal year ending June 30, 2022, no state agency named in this or other appropriation act of the 2021 regular session of the legislature shall expend moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2022 as authorized by this or other appropriation act of the 2021 regular session of the legislature for such state agency as authorized by this or other appropriation act of the 2021 regular session of the legislature to:

(1) Award either a public works or a purchase contract for goods or services having a value of at least \$50,000 to a bidder, contractor or employer unless such bidder, contractor or employer verifies the employment eligibility of the employees of such bidder, contractor or employer through e-verify;

(2) authorize a bidder, contractor or employer to be eligible to bid for or receive either a public works contract or a purchase contract having a value of at least \$50,000 from any such state agency unless such bidder, contractor or employer certifies that such bidder, contractor or employer verifies the employment eligibility of the employees of such bidder, contractor or employer through e-verify; or

(3) authorize such bidder, contractor or employer who bids on or receives a contract referenced in either paragraph (1) or (2) to bid or receive a contract prior to ensuring that any subcontractor used by the bidder, contractor or employer in the performance of the public works contract or purchase contract having a value of at least \$50,000 certifies the employment eligibility of the employees of such subcontractor through e-verify.

(c) In addition to the other purposes for which expenditures may be made by any state agency named in this or other appropriation act of the 2021 or 2022 regular session of the legislature from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2023 as authorized by this or other appropriation act of the 2021 or 2022 regular session of the legislature, expenditures are

hereby authorized and directed to be made by each such state agency from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2023 to enroll and actively participate in e-verify for verification of employment status of all employees whose employment commences during fiscal year 2023.

(d) During the fiscal year ending June 30, 2023, no state agency named in this or other appropriation act of the 2021 or 2022 regular session of the legislature shall expend moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2023 as authorized by this or other appropriation act of the 2021 or 2022 regular session of the legislature for such state agency as authorized by this or other appropriation act of the 2021 or 2022 regular session of the legislature to:

(1) Award either a public works or a purchase contract for goods or services having a value of at least \$50,000 to a bidder, contractor or employer unless such bidder, contractor or employer verifies the employment eligibility of the employees of such bidder, contractor or employer through e-verify;

(2) authorize a bidder, contractor or employer to be eligible to bid for or receive either a public works contract or a purchase contract having a value of at least \$50,000 from any such state agency unless such bidder, contractor or employer certifies that such bidder, contractor or employer verifies the employment eligibility of the employees of such bidder, contractor or employer through e-verify; or

(3) authorize such bidder, contractor or employer who bids on or receives a contract referenced in either paragraph (1) or (2) to bid or receive a contract prior to ensuring that any subcontractor used by the bidder, contractor or employer in the performance of the public works contract or purchase contract having a value of at least \$50,000 certifies the employment eligibility of the employees of such subcontractor through e-verify.

(e) As used in this section:

(1) "Employee" means any person who performs employment services for an employer pursuant to an employment relationship between the employee and the employer.

(2) "Employer" means any individual or type of organization that transacts business in this state and that employs one or more individuals who perform employment services in this state.

(3) "E-verify" means an electronic system jointly administered by the United States department of homeland security and the social security administration or its successor program, pursuant to 8 U.S.C. § 1324a, that is used to verify the employment authorization of employees.";

And by renumbering sections accordingly
and **Sub SB 267** be passed as amended.

A motion by Senator Hawk to further amend **Sub SB 267** failed and the following amendment was rejected; on page 148, following line 34, by inserting :

"Supplemental state aid (652-00-1000-0840) \$2,548,000";

On page 154, in line 18, by subtracting \$225,837,738 from the dollar amount and by adjusting the dollar amount in line 18 accordingly; by striking all in lines 19 through 23; by striking all in lines 39 through 43;

On page 155, by striking all in line 1;

And by relettering subsections accordingly;

Also on page 155, in line 6, by adding \$312,451,242 to the dollar amount and by adjusting the dollar amount in line 6 accordingly; in line 9, before the period, by inserting ": *Provided further*, That expenditures shall be made by the above agency from the state foundation aid account to distribute the high-density at-risk student weighting to qualifying school districts: *And provided further*, That the high-density at-risk student weighting of a school district shall be the greater of the amounts calculated for such school district pursuant to the following two paragraphs: (1) (A) For a school district with an enrollment of at least 35% at-risk students but less than 50% at-risk students: (i) Subtract 35% from the percentage of at-risk students included in the enrollment of the school district; (ii) multiply such difference by 0.7; and (iii) multiply such product by the number of at-risk students included in the enrollment of the school district; or (B) for a school district with an enrollment of 50% or more at-risk students, multiply the number of at-risk students included in the enrollment of the school district by 0.105; or (2) (A) for any school in a school district with an enrollment of at least 35% but less than 50% at-risk students: (i) Subtract 35% from the percentage of at-risk students included in the enrollment of such school; (ii) multiply such difference by 0.7; and (iii) multiply such product by the number of at-risk students included in the enrollment of such school; or (B) for any school in a school district with an enrollment of 50% or more at-risk students, multiply the number of at-risk students included in the enrollment of such school by 0.105; and (C) add the amounts determined pursuant to this paragraph for each such school in the school district: *And provided further*, That any school district that qualifies to receive the high-density at-risk student weighting shall spend any moneys attributable to such school district's high-density at-risk student weighting on the at-risk best practices developed by the state board pursuant to K.S.A. 72-5153(d), and amendments thereto: *And provided further*, That if a school district that qualifies for the high-density at-risk student weighting does not spend such moneys on such best practices, the state board shall notify the school district that it shall either spend such moneys on such best practices or shall show improvement within five years of notification: *And provided further*, That improvement shall include, but not be limited to, the following: The percentage of students at grade level on state math and English language arts assessments; the percentage of students that are college and career ready on state math and English language arts assessments; the average composite ACT score; or the four-year graduation rate: *And provided further*, That if a school district does not spend such moneys on such best practices and does not show improvement within five years, the school district shall not qualify to receive the high-density at-risk student weighting in the succeeding school year."; in line 10, by adding \$20,700,000 to the dollar amount and by adjusting the dollar amount in line 10 accordingly

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

On roll call, the vote was: Yeas 17; Nays 20; Present and Passing 1; Absent or Not Voting 2.

Yeas: Bowers, Corson, Dietrich, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, Kloos, Longbine, McGinn, O'Shea, Pettey, Pittman, Sykes, Ware.

Nays: Alley, Baumgardner, Claeys, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Masterson, Olson, Peck, Petersen, Pyle, Ryckman, Steffen, Straub, Thompson, Tyson, Warren, Wilborn.

Present and Passing: Billinger.

Absent or Not Voting: Doll, Suellentrop.

A motion by Senator Hilderbrand to further amend **SB 267** failed and the following amendment was rejected; on page 267, following line 34, by inserting:

"Sec. 136. (a) Except as provided in subsection (c), on July 1, 2021, of each amount appropriated for a state agency for the fiscal year ending June 30, 2022, by chapter 5 of the 2020 Session Laws of Kansas, this act or other appropriation act of the 2021 regular session of the legislature from the state general fund, the sum equal to 3% of such appropriation that is not exempt is hereby lapsed.

(b) Except as provided in subsection (c), on July 1, 2021, of each amount appropriated for a state agency for the fiscal year ending June 30, 2022, by chapter 5 of the 2020 Session Laws of Kansas, this act or other appropriation act of the 2021 regular session of the legislature from the state general fund, the sum equal to 3% of such reappropriation that is not exempt is hereby lapsed.

(c) The following items are exempt from and shall not be lapsed pursuant to this section:

(1) Any item of appropriation or reappropriation from the state general fund for fiscal year 2022 for debt service for payments made pursuant to contractual bond obligations; and

(2) any item of appropriation or reappropriation from the state general fund for fiscal year 2022 for the following state agencies: Department of corrections, adjutant general, state fire marshal, Kansas highway patrol, attorney general - Kansas bureau of investigation, emergency medical services board, Kansas sentencing commission and Kansas commission on peace officers' standards and training;

(3) any item of appropriation or reappropriation from the state general fund for fiscal year 2022 for the Kansas state school for the deaf, Kansas state school for the blind and the department of education; and

(4) any item of appropriation or reappropriation from the state general fund for fiscal year 2022 for the Kansas department for children and families, division of health care finance of the department of health and environment, department of corrections or the Kansas department for aging and disability services that are required to meet caseload obligations under the state medicaid plan, including general medical expenditures under KanCare and non-KanCare expenditures included in the consensus caseload estimating process, or for the Kansas department for children and families to meet caseload obligations for temporary assistance for needy families, foster care and reintegration services contracts or adoption services contracts, as certified by the director of the budget to the director of accounts and reports for the purposes of this subsection. At the same time that any certification is made by the director of the budget to the director of accounts and reports under this section, the director of the budget shall deliver a copy of such certification to the director of legislative research.";

And by renumbering remaining sections accordingly

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

On roll call, the vote was: Yeas 14; Nays 19; Present and Passing 3; Absent or Not Voting 4.

Yeas: Alley, Baumgardner, Erickson, Gossage, Hilderbrand, Olson, Peck, Petersen, Pyle, Steffen, Straub, Thompson, Tyson, Warren.

Nays: Bowers, Corson, Dietrich, Fagg, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, Kerschen, Kloos, Longbine, McGinn, O'Shea Pittman, Ryckman, Sykes, Ware.

Present and Passing: Billinger, Claeys, Wilborn.

Absent or Not Voting: Doll, Masterson, Petty, Suellentrop.

A motion by Senator Thompson to further amend **Sub SB 267** was withdrawn.

A motion by Senator Pyle to further amend **Sub SB 267** failed.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **HB 2155** be passed.

Also, recommends **HB 2172**, as amended by House Committee of the Whole, be passed.

The Committee on **Education** recommends **SB 208** be amended on page 3, in line 19, by striking all after "(c) (1)"; by striking all in lines 20 through 31; in line 32, by striking all before "The"; in line 34, by striking "and the timely resolution of any disputes"; in line 39, by striking "and the timely resolution of any disputes"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2227**, as amended by House Committee, be passed.

Also, **HB 2078**, as amended by House Committee, be amended on page 3, in line 19, by striking "2024" and inserting "2023"; in line 33, after "(l)" by inserting "The office of judicial administration shall prepare and submit a report to the senate standing committee on judiciary and the house of representatives standing committee on judiciary on or before January 17, 2022, and January 16, 2023, containing the following information disaggregated by judicial district:

(1) The number of pending criminal cases on January 1, 2022, and January 1, 2023, respectively;

(2) the number of criminal cases resolved during fiscal years 2021 and 2022, respectively, and the method of disposition in each case;

(3) the number of jury trials conducted in criminal cases during fiscal years 2021 and 2022, respectively; and

(4) the number of new criminal cases filed in fiscal years 2021 and 2022, respectively.

(m)";

On page 1, in the title, in line 3, after the second semicolon by inserting "requiring the office of judicial administration to prepare and submit a report to the legislature in 2022 and 2023;"; and the bill be passed as amended.

The Committee on **Public Health and Welfare** recommends **HB 2254**, as amended by House Committee, be amended on page 1, in line 25, after the second "and" by inserting "on and after July 1, 2021,"; in line 26, after the period by inserting "On July 1, 2022, and each July 1 thereafter, such amount shall be increased in an amount equal to the average percentage increase in the consumer price index for all urban consumers in the midwest region as published by the bureau of labor statistics of the United States department of labor."; following line 31, by inserting:

"Sec. 2. K.S.A. 65-1762 is hereby amended to read as follows: 65-1762. (a) The licensed crematory operator in charge shall supervise the licensed crematory on a full-time or a part-time basis and perform such other duties relating to the supervision of a licensed crematory as prescribed by the board by rules and regulations. The crematory operator in charge of a licensed crematory—~~must~~ shall hold a Kansas crematory

operator's license. Additionally, a crematory operator in charge ~~must~~ shall hold a funeral director's license unless the crematory only receives dead human bodies for cremation through licensed funeral establishments or branch funeral establishments.

(b) Only licensed crematory operators may perform cremation.

(c) No crematory operator or crematory operator in charge shall cremate or cause to be cremated any dead human body until it has received:

(1) A cremation authorization form signed by an authorizing agent. The written authorization shall include:

(A) The identity of the dead human body and the time and date of death;

(B) the name of the funeral director or assistant funeral director and the funeral establishment or branch establishment, or the authorizing agent, that obtained the cremation authorization;

(C) notification as to whether the cause of death occurred from a disease declared by the department of health and environment to be infectious, contagious, communicable or dangerous to the public health;

(D) the name of the authorizing agent and the relationship between the authorizing agent and the decedent;

(E) authorization for the crematory to cremate the dead human body;

(F) a representation that the dead human body does not contain a pacemaker or any other material or implant that may be potentially hazardous or cause damage to the cremation chamber or the person performing the cremation;

(G) the name of the person authorized to receive the cremated remains from the crematory; and

(H) the signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form; ~~and~~

(2) a completed and executed coroner's permit to cremate, ~~as is provided in if required by~~ K.S.A. 65-2426a, and amendments thereto, indicating that the dead human body is to be cremated.

Sec. 3. K.S.A. 65-2426a is hereby amended to read as follows: 65-2426a. ~~(a)(1)~~ No dead body, as ~~such term is~~ defined in ~~subsection (f) of~~ K.S.A. 65-2401, and amendments thereto, shall be cremated unless a coroner's permit to cremate has been ~~furnished executed~~ to authorize such cremation, if the death or cause of death occurred within the state of Kansas or in a state where such permit to cremate is required.

(2) A telefacsimile or electronic signed copy of the coroner's permit to cremate which that authorizes the cremation shall constitute legal authorization for such cremation under this section.

(b) The provisions of this section shall be construed as a part of and supplemental to and as a part of the uniform vital statistics act.

(c) Any person who knowingly violates this section, upon conviction, shall be fined not more than \$500."

Also on page 1, in line 32, before "K.S.A." by inserting "K.S.A. 65-1762, 65-2426a and 65-2429 and"; also in line 32, by striking "is" and inserting "are";

And by renumbering sections accordingly;

Also on page 1, in the title, in line 1, by striking "arrangements" and inserting "preparations"; in line 3, after the semicolon by inserting "relating to preparation of bodies for a funeral or cremation; removing the requirement to provide a permit to cremate in certain circumstances; authorizing electronic permits to cremate;"; also in

line 3, after "amending" by inserting "K.S.A. 65-1762 and 65-2426a and"; in line 4, by striking "section" and inserting "sections; also repealing K.S.A. 65-2429"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2007** be amended on page 7, in line 11, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Also, **HB 2014**, as amended by House Committee, 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 **Utilities** recommends **HB 2145** be passed.

Committee on **Ways and Means** recommends **SB 145; HB 2270** be passed.

REPORT ON ENROLLED BILLS

SB 13 reported correctly enrolled, properly signed and presented to the Governor on March 16, 2021.

On motion of Senator Alley, the Senate adjourned until 2:30 p.m., Wednesday, March 17, 2021.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

