JOURNAL

OF THE

SENATE

OF THE

STATE OF KANSAS

FOR THE

2009 Legislative Session January 12 through June 4, 2009

HELD AT THE

STATE CAPITOL TOPEKA, KANSAS

PAT SAVILLE, Secretary of the Senate

DIVISION OF PRINTING DEPARTMENT OF ADMINISTRATION TOPEKA, KANSAS 2009 5534

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Governor

MARK PARKINSON, Olathe

Lieutenant Governor TROY FINDLEY, Topeka

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OFFICERS OF THE SENATE

2009 Regular Session

Stephen Morris, Hugoton	President
John Vratil, Leawood	Vice President
Derek Schmidt, Independence	Majority Leader
Anthony Hensley, Topeka	Minority Leader
Pat Saville, Topeka	Secretary
Jody Kirkwood, Meriden	Sergeant at Arms

STATE SENATORS 2009 LEGISLATIVE SESSION Members Listed Alphabetically

Name and City	Occupation	Party	Dist.
Abrams, Steve, Arkansas City	Veterinarian	Rep.	8
Apple, Pat, Louisburg	Electrician	Rep.	12
Barnett, Jim, Emporia	Physician	Rep.	17
Brownlee, Karin, Olathe	Homemaker	Rep.	23
Bruce, Terry, Hutchinson	Attorney	Rep.	34
Brungardt, Pete, Salina	Optometrist	Rep.	24
Colyer, Jeff, Overland Park	Physician	Rep.	37
Donovan, Les, Wichita	Auto Dealer	Rep.	27
Emler, Jay Scott, Lindsborg	Attorney	Rep.	35
Faust-Goudeau, Oletha, Wichita	Community Activist	Dem.	29
Francisco, Marci, Lawrence	Space Analyst	Dem.	2
Haley, David, Kansas City	Public Affairs Counsel	Dem.	4
Hensley, Anthony, Topeka	Special Education Teacher	Dem.	19
Holland, Tom, Baldwin City	Information Technology Consultant	Dem.	3
Huelskamp, Tim, Fowler	Farmer	Rep.	38
Kelly, Laura, Topeka	Association Management	Dem.	18
Kelsey, Dick, Goddard	Business Owner	Rep.	26
Kultala, Kelly, Kansas City	Director of Community Outreach	Dem.	5
Lee, Janis, Kensington	Rancher/Farmer	Dem.	36
Lynn, Julia, Olathe	Development Officer, Youth Front	Rep.	9
Marshall, Bob, Fort Scott	Retired Airline Pilot	Rep.	13
Masterson, Ty, Andover	Real Estate Agent/General Contractor	Rep.	16
McGinn, Carolyn, Sedgwick	Ag Producer/Substitute Teacher	Rep.	31
Morris, Stephen, Hugoton	Farmer	Rep.	39
Ostmeyer, Ralph, Grinnell	Farmer/Rancher	Rep.	40
Owens, Tim, Overland Park	Attorney	Rep.	58
Petersen, Mike, Wichita	Industrial Electrician	Rep.	28
Pilcher-Cook, Mary, Shawnee	Publisher	Rep.	10
Pyle, Dennis, Hiawatha	Farmer	Rep.	1
Reitz, Roger, Manhattan	Physician	Rep.	22
Schmidt, Derek, Independence	Attorney	Rep.	15
Schmidt, Vicki, Topeka	Pharmacist	Rep.	20
Schodorf, Jean, Wichita	Speech/Language Pathologist	Rep.	25
Steineger, Chris, Kansas City	Real Estate Investments	Dem.	6
Taddiken, Mark, Clifton	Farmer/Stockman	Rep.	21
Teichman, Ruth, Stafford	Farmer	Rep.	33
Umbarger, Dwayne, Thayer	Farmer/Rancher	Rep.	14
Vratil, John, Leawood	Attorney	Rep.	11
Wagle, Susan, Wichita		Rep.	30
Wysong, David, Mission Hills	Capital Management	Rep.	7

SENATE COMMITTEE ASSIGNMENTS

2009 LEGISLATIVE SESSION

Standing Committees

8:30 a.m. Tues/Wed	Agriculture (9)		Room	446-N	
Taddiken, Chairperson;	Ostmeyer,	Vice	Chairperson;	Barnett,	Bruce,
Huelskamp, Morris, Pyle.					
Francisco, Ranking Minor	ity Member;	Lee.			

10:30 a.m.Assessment and Taxation (9)Room 535-NDonovan, Chairperson; Lynn, Vice Chairperson; D. Schmidt, ViceChairperson; Apple, Brownlee, Colyer, Marshall.Holland, Ranking Minority Member; Steineger.

8:30 a.m. Commerce (9) Room 545-N Wysong, *Chairperson;* Lynn, *Vice Chairperson;* Emler, Kelsey, Reitz, Schodorf, Wagle.

Holland, Ranking Minority Member; Faust-Goudeau.

On Call Confirmation Oversight (6)

D. Schmidt, *Chairperson;* Hensley, *Vice Chairperson;* Brownlee, Marshall, Owens, Schodorf.

1:30 p.m.Education (11)Room 545-NSchodorf, Chairperson; Vratil, Vice Chairperson; Abrams, Huelskamp,

Marshall, Owens, Teichman, Umbarger, Wagle. Hensley, *Ranking Minority Member*; Steineger.

9:30 a.m. Wed/Thur Ethics and Elections (9) Room 446-N

V. Schmidt, *Chairperson;* Apple, *Vice Chairperson;* Brungardt, Pyle, Reitz, Wagle, Wysong.

Faust-Goudeau, Ranking Minority Member; Kultala.

10:30 a.m. Federal and State Affairs (9) Room 136-N

Brungardt, *Chairperson;* Reitz, *Vice Chairperson;* Abrams, Morris, Ostmeyer, Owens, Pyle.

Faust-Goudeau, Ranking Minority Member; Francisco.

9:30 a.m. Financial Institutions and Insurance (9) Room 136-N

Teichman, *Chairperson*; Brownlee, *Vice Chairperson*; Barnett, Colyer, Kelsey, Masterson, Taddiken.

Steineger, Ranking Minority Member; Holland.

On Call

Interstate Cooperation (7)

Morris, *Chairperson;* D. Schmidt, V. Schmidt, Schodorf, Vratil. Hensley, *Ranking Minority Member;* Holland.

9:30 a.m.

Judiciary (11)

Room 545-N

Owens, *Chairperson;* D. Schmidt, *Vice Chairperson;* Bruce, Donovan, Lynn, Pilcher-Cook, Schodorf, Umbarger, Vratil. Haley, *Ranking Minority Member;* Kelly.

9:30 a.m. Mon/Tues Local Government (9) Room 446-N

Reitz, *Chairperson;* Wagle, *Vice Chairperson;* Huelskamp, Marshall, McGinn, Ostmeyer, Petersen.

Kultala, Ranking Minority Member; Faust-Goudeau.

8:30 a.m. Thur/Fri Natural Resources (9) Room 446-N

McGinn, *Chairperson;* Teichman, *Vice Chairperson;* Abrams, Bruce, Morris, Pilcher-Cook, Taddiken.

Francisco, Ranking Minority Member; Lee.

On Call Organization, Calendar and Rules (9)

Morris, *Chairperson*; D. Schmidt, *Vice Chairperson*; Apple, Barnett, Brungardt, McGinn, Teichman, Umbarger, Vratil.

1:30 p.m. Public Health and Welfare (9) Room 136-N

Barnett, Chairperson; V. Schmidt, Vice Chairperson; Brungardt, Colyer, Kelsey, Pilcher-Cook, Wysong.

Haley, Ranking Minority Member; Kelly.

8:30 a.m. Tues through Fri Transportation (9) Room 136-N Umbarger, *Chairperson;* Marshall, *Vice Chairperson;* Apple, Brownlee, Donovan, Petersen, V. Schmidt.

Kultala, Ranking Minority Member; Hensley.

1:30 p.m. Utilities (11) Room 446-N

Apple, *Chairperson;* Petersen, *Vice Chairperson;* Brownlee, Bruce, Emler, Masterson, McGinn, Reitz, Taddiken.

Lee, Ranking Minority Member; Francisco.

10:30 a.m. Ways and Means (13) Room 545-N

Emler, Chairperson; McGinn, Vice Chairperson; Vratil, Vice Chairperson; Masterson, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Wysong. Kelly, Ranking Minority Member; Kultala, Lee.

COMMITTEES OF THE SENATE

JOINT COMMITTEES OF THE SENATE AND HOUSE

Administrative Rules and Regulations (5 Senate – 7 House)

On Call

V. Schmidt, *Vice Chairperson;* Brownlee, Lee, Ostmeyer, Steineger. *House Members:* C. Holmes, *Chairperson;* Faber, Huebert, Palmer, Patton, Pauls, Trimmer.

Arts and Cultural Resources

(5 Senate – 5 House)

Schodorf, Vice Chairperson; Faust-Goudeau, Francisco, Lynn, Umbarger. House Members: Horst, Chairperson; Carlin, Furtado, Gordon, Swanson.

Children's Issues (5 Senate – 5 House)

On Call

On Call

Lynn, Vice Chairperson; Faust-Goudeau, Haley, Reitz, Wagle. House Members: Kiegerl, Chairperson; Crow, DeGraaf, Otto, Winn.

Corrections & Juvenile Justice Oversight

On Call

(7 Senate – 7 House)

Brungardt, *Vice Chairperson;* Brownlee, Bruce, Haley, Kelsey, Lee, Owens. *House Members:* Colloton, *Chairperson;* Craft, Grange, Henry, Patton, Pauls, Ward.

Economic Development (5 Senate – 8 House)

(5 Senate – 8 House)

Wysong, Vice Chairperson; Faust-Goudeau, Holland, Lynn, Marshall. House Members: Gordon, Chairperson; Benlon, Donohoe, George, Schwartz, Seiwert, Slattery, Winn.

Energy and Environmental Policy (5 Senate – 6 House)

McGinn, *Chairperson;* Apple, Lee, Reitz, Taddiken. *House Members:* C. Holmes, *Vice Chairperson;* M. Holmes, Knox, Neighbor, Sloan, Svaty.

Health Policy Oversight

(6 Senate - 6 House)

Barnett, *Chairperson*; Colyer, Haley, Kelly, Reitz, V. Schmidt. *House Members:* Landwehr, *Vice Chairperson*; Bethell, Hill, Mast, Ruiz, Ward.

Home and Community Based Services Oversight (4 Senate – 5 House)

McGinn, *Chairperson;* Kelly, Kultala, Umbarger. *House Members:* Bethell, *Vice Chairperson;* Henry, Landwehr, Mast, McCray-Miller.

On Call

On Call

On Call

On Call

COMMITTEES OF THE SENATE

Information Technology (5 Senate – 5 House)

On Call

Huelskamp, Vice Chairperson; Holland, Petersen, V. Schmidt, Steineger. House Members: McLeland, Chairperson; Burgess, Dillmore, Lane, Morrison.

Kansas Security

On Call (5 Senate - 5 House)

Emler, Vice Chairperson; Hensley, Lee, McGinn, Owens. House Members: Goico, Chairperson; Johnson, Loganbill, Menghini, Tafanelli.

Legislative Coordinating Council

(3 Senate – 4 House)

Morris, Chairperson; Hensley, D. Schmidt. House Members: O'Neal, Vice Chairperson; Davis, Merrick, Siegfried.

Legislative Post Audit

On Call

On Call

On Call

(5 Senate – 5 House) Bruce, Vice Chairperson; Hensley, D. Schmidt, Steineger, Umbarger.

House Members: Peck, Chairperson; Burroughs, Grange, Mast, Sawyer.

Pensions. Investments and Benefits

(5 Senate – 8 House)

Morris, Vice Chairperson; Emler, Hensley, Kelly, Teichman. House Members: Olson, Chairperson; Carlson, Flaharty, Huntington, Long, Schwartz, Swenson, Whitham.

Special Claims Against the State

(5 Senate – 8 House)

Owens, Chairperson; Bruce, Kultala, Masterson, Pyle. House Members: M. Holmes, Vice Chairperson; Feuerborn, Fund, Grant, Henderson, Huebert, King, Patton.

State Building Construction

(5 Senate - 5 House)

Umbarger, Vice Chairperson; Apple, Emler, Francisco, Kelly. House Members: Pottorff, Chairperson; Brunk, Feuerborn, Grant, M. Holmes.

State-Tribal Relations

(5 Senate – 5 House)

Brungardt, Chairperson; Haley, Kultala, Pyle, Vratil. House Members: Knox, Vice Chairperson; Lukert, Rhoades, Sawyer, K. Wolf.

On Call

On Call

On Call

SENATE MEMBERS SHOWING COMMITTEE ASSIGNMENTS, RANK, TIME AND COMMITTEE ROOM, PARTY AND DISTRICT NUMBER, OFFICE, ROOM AND TELEPHONE

Abrams, Steve Republican, District 32 Room 544-N (785) 296-7381 Committee Education Federal and State Affairs Natural Resources	Rank Member Member Member	Time 1:30 pm 10:30 am 8:30 am Thur/Fri	Room 545-N 136-N 446-N
Apple, Pat Republican, District 12 Room 242-E (785) 296-7368			
Committee Utilities Ethics and Elections Assessment and Taxation Energy and Environmental Policy (Joint) Organization, Calendar and Rules State Building Construction (Joint) Transportation	Rank Chair Vice Chair Member Member Member Member Member	Time 1:30 pm 9:30 am Wed/Thur 10:30 am On Call On Call 0n Call 8:30 am Tues thru Fri	Room 446-N 446-N 535-N 136-N
Barnett, Jim Republican, District 17 Room 142-E (785) 296-7384 Committee Health Policy Oversight (Joint) Public Health and Welfare Agriculture Financial Institutions and Insurance Organization, Calendar and Rules	Rank Chair Chair Member Member Member	Time On Call 1:30 pm 8:30 am Tues/Wed 9:30 am On Call	Room 136-N 446-N 136-N
Brownlee, Karin Republican, District 23 Room 261-E (785) 296-7358			
Committee Financial Institutions and Insurance Administrative Rules and Regulations	Rank Vice-Chair	Time 9:30 am	Room 136-N
(Joint) Assessment and Taxation Confirmation Oversight Corrections and Juvenile Justice	Member Member Member	On Call 10:30 am On Call	535-N
Oversight (Joint) Transportation Utilities	Member Member Member	On Call 8:30 am Tues thru Fri 1:30 pm	136-N 446-N

Committee Assignments

Bruce, Terry Republican, District 34 Room 141-E (785) 296-7300			
Committee	Rank	Time	Room
Legislative Post Audit (Joint) Agriculture	Vice Chair Member	On Call 8:30 am Tues/Wed	446-N
Corrections and Juvenile Justice	Wielinder		440-11
Oversight (Joint)	Member	On Call	
Judiciary	Member	9:30 am	545-N
Natural Resources	Member	8:30 am Thur/Fri	446-N
Special Claims Against the State (Joint)	Member	On Call	
Utilities	Member	1:30 pm	446-N
Brungardt, Pete Republican, District 24 Room 121-E (785) 296-7390			
Committee	Rank	Time	Room
Federal and State Affairs	Chair	10:30 am	136-N
State-Tribal Relations (Joint)	Chair	On Call	
Corrections and Juvenile Justice Oversight (Joint)	Vice Chair	On Call	
Ethics and Elections	Member	9:30 am Wed/Thur	446-N
Organization, Calendar and Rules	Member	On Call	440-14
Public Health and Welfare	Member	1:30 pm	136-N
Colyer, Jeff Republican, District 37 Room 547-N (785) 296-7383 Committee Assessment and Taxation Financial Institutions and Insurance Health Policy Oversight (Joint)	Rank Member Member Member	Time 10:30 am 9:30 am On Call	Room 535-N 136-N
Public Health and Welfare	Member	1:30 pm	136-N
Donovan, Les Republican, District 27 Room 122-E (785) 296-7385			
Committee	Rank	Time	Room
Assessment and Taxation	Chair	10:30 am	535-N
Judiciary	Member	9:30 am	545-N
Transportation	Member	8:30 am Tues thru Fri	130-IN

Emler, Jay Republican, District 35 Room 537-N (785) 296-7354			
Committee	Rank	Time	Room
Ways and Means	Chair	10:30 am	545-N
Kansas Security (Joint)	Vice Chair	On Call	
Commerce	Member	8:30 am	545-N
Pensions, Investments and			
Benefits (Joint)	Member	On Call	
State Building Construction (Joint)	Member	On Call	146 N
Utilities	Member	1:30 pm	446-N
Faust-Goudeau, Oletha Democrat, District 29 Room 134-N (785) 296-7387			
Committee	Rank	Time	Room
Ethics and Elections	*RM Member	9:30 am Wed/Thur	446-N
Federal and State Affairs	*RM Member	10:30 am	136-N
Arts and Cultural Resources (Joint)	Member	On Call	
Children's Issues (Joint)	Member	On Call	
Commerce	Member	8:30 am	545-N
Economic Development (Joint)	Member	On Call	
Local Government	Member	9:30 am Mon/Tues	446-N
Francisco, Marci Democrat, District 2 Room 181-E (785) 296-7364			
	Rank	Time	Room
Committee		THIC	Room
Committee Agriculture	*RM Member	8:30 am Tues/Wed	446-N
Agriculture	*RM Member *RM Member		446-N 446-N
Agriculture Natural Resources	*RM Member	8:30 am Thur/Fri	
Agriculture Natural Resources Arts and Cultural Resources (Joint)	*RM Member Member	8:30 am Thur/Fri On Call	446-N
Agriculture Natural Resources Arts and Cultural Resources (Joint) Federal and State Affairs	*RM Member Member Member	8:30 am Thur/Fri On Call 10:30 am	446-N
Agriculture Natural Resources Arts and Cultural Resources (Joint) Federal and State Affairs State Building Construction (Joint) Utilities Haley, David Democrat, District 4 Room 449-N	*RM Member Member Member Member	8:30 am Thur/Fri On Call 10:30 am On Call	446-N 136-N
Agriculture Natural Resources Arts and Cultural Resources (Joint) Federal and State Affairs State Building Construction (Joint) Utilities Haley, David Democrat, District 4 Room 449-N (785) 296-7376	*RM Member Member Member Member	8:30 am Thur/Fri On Call 10:30 am On Call 1:30 pm	446-N 136-N
Agriculture Natural Resources Arts and Cultural Resources (Joint) Federal and State Affairs State Building Construction (Joint) Utilities Haley, David Democrat, District 4 Room 449-N	*RM Member Member Member Member	8:30 am Thur/Fri On Call 10:30 am On Call 1:30 pm Time	446-N 136-N 446-N
Agriculture Natural Resources Arts and Cultural Resources (Joint) Federal and State Affairs State Building Construction (Joint) Utilities Haley, David Democrat, District 4 Room 449-N (785) 296-7376 Committee	*RM Member Member Member Member Rank	8:30 am Thur/Fri On Call 10:30 am On Call 1:30 pm Time	446-N 136-N 446-N Room
Agriculture Natural Resources Arts and Cultural Resources (Joint) Federal and State Affairs State Building Construction (Joint) Utilities Haley, David Democrat, District 4 Room 449-N (785) 296-7376 Committee Judiciary	*RM Member Member Member Member Member	8:30 am Thur/Fri On Call 10:30 am On Call 1:30 pm Time 9:30 am	446-N 136-N 446-N Room 545-N
Agriculture Natural Resources Arts and Cultural Resources (Joint) Federal and State Affairs State Building Construction (Joint) Utilities Haley, David Democrat, District 4 Room 449-N (785) 296-7376 Committee Judiciary Public Health and Welfare Children's Issues (Joint) Corrections and Juvenile Justice	*RM Member Member Member Member Member *RM Member *RM Member Member	8:30 am Thur/Fri On Call 10:30 am On Call 1:30 pm Time 9:30 am 1:30 pm On Call	446-N 136-N 446-N Room 545-N
Agriculture Natural Resources Arts and Cultural Resources (Joint) Federal and State Affairs State Building Construction (Joint) Utilities Haley, David Democrat, District 4 Room 449-N (785) 296-7376 Committee Judiciary Public Health and Welfare Children's Issues (Joint) Corrections and Juvenile Justice Oversight (Joint)	*RM Member Member Member Member *RM Member *RM Member Member Member	8:30 am Thur/Fri On Call 10:30 am On Call 1:30 pm Time 9:30 am 1:30 pm On Call On Call	446-N 136-N 446-N Room 545-N
Agriculture Natural Resources Arts and Cultural Resources (Joint) Federal and State Affairs State Building Construction (Joint) Utilities Haley, David Democrat, District 4 Room 449-N (785) 296-7376 Committee Judiciary Public Health and Welfare Children's Issues (Joint) Corrections and Juvenile Justice	*RM Member Member Member Member Member *RM Member *RM Member Member	8:30 am Thur/Fri On Call 10:30 am On Call 1:30 pm Time 9:30 am 1:30 pm On Call	446-N 136-N 446-N Room 545-N

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Hensley, Anthony	Democratic Lo	eader	
Democrat, District 19			
Room 347-N			
(785) 296-3245			
Committee	Rank	Time	Room
Confirmation Oversight	Vice Chair	On Call	
Education	*RM Member	1:30 pm	545-N
Interstate Cooperation	*RM Member	On Call	
Kansas Security (Joint)	Member	On Call	
Legislative Coordinating Council (Joint)	Member	On Call	
Legislative Post Audit (Joint)	Member	On Call	
Pensions, Investments and			
Benefits (Joint)	Member	On Call	
Transportation	Member	8:30 am Tues thru Fri	136-N
F			
Holland, Tom	Caucus and A	genda Chair	
Democrat, District 3		-	
Room 181-E			
(785) 296-7372			
Committee	Rank	Time	Room
Assessment and Taxation	*RM Member	10:30 am	535-N
Commerce	*RM Member	8:30 am	545-N
Economic Development (Joint)	Member	On Call	
Financial Institutions and Insurance	Member	9:30 am	136-N
Information Technology (Joint)	Member	On Call	
Interstate Cooperation	Member	On Call	
Huelskamp, Tim			
Republican, District 38			
Room 262-E			
(785) 296-7359			
Committee	Rank	Time	Room
Information Technology (Joint)	Vice Chair	On Call	
Agriculture	Member	8:30 am Tues/Wed	446-N
Education	Member	1:30 pm	545-N
Local Government	Member	9:30 am Mon/Tues	446-N
Kelly, Laura	Democratic W	hip	
Democrat, District 18			
Room 162-E			
(785) 296-7365	.	(T) (D
Committee	Rank	Time	Room
Ways and Means	*RM Member		545-N
Health Policy Oversight (Joint)	Member	On Call	
Home and Community Based Services	NC 1	0.01	
Oversight (Joint)	Member	On Call	5 4 5 N
Judiciary	Member	9:30 am	545-N
Pensions, Investments and	Manahara	On Call	
Benefits (Joint)	Member	On Call	
Public Health and Welfare	Mamhar	1.20 mm	126 N
State Building Construction (Icint)	Member Member	1:30 pm	136-N
State Building Construction (Joint)	Member Member	1:30 pm On Call	136-N

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Kelsey, Dick Republican, District 26 Room 547-N (785) 296-7367			
Committee Commerce	Rank Member	Time 8:30 am	Room 545-N
Corrections and Juvenile Justice Oversight (Joint)	Member	On Call	
Financial Institutions and Insurance	Member	9:30 am	136-N
Public Health and Welfare	Member	1:30 pm	136-N
Kultala, Kelly Democrat, District 5 Room 404-N (785) 296-7357			
Committee	Rank	Time	Room
Local Government	*RM Member		446-N
Transportation Ethics and Elections	*RM Member Member	9:30 am Yed/Thur	136-N 446-N
Home and Community Based Services	Wielilder		440-IN
Oversight (Joint)	Member	On Call	
Special Claims Against the State (Joint)	Member	On Call	
State-Tribal Relations (Joint)	Member	On Call	
Ways and Means	Member	10:30 am	545-N
Lee, Janis Democrat, District 36	Assistant Dem	ocratic Leader	
Room 162-E			
Room 162-E (785) 296-7366			D
Room 162-E (785) 296-7366 Committee	Rank *DM Mambar	Time	Room
Room 162-E (785) 296-7366 Committee Utilities	Rank *RM Member	Time 1:30 pm	Room 446-N
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations			
Room 162-E (785) 296-7366 Committee Utilities	*RM Member	1:30 pm	
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations (Joint)	*RM Member Member	1:30 pm On Call	446-N
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations (Joint) Agriculture Corrections and Juvenile Justice Oversight (Joint)	*RM Member Member Member Member	1:30 pm On Call 8:30 am Tues/Wed On Call	446-N
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations (Joint) Agriculture Corrections and Juvenile Justice Oversight (Joint) Energy and Environmental Policy (Joint)	*RM Member Member Member Member	1:30 pm On Call 8:30 am Tues/Wed On Call On Call	446-N
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations (Joint) Agriculture Corrections and Juvenile Justice Oversight (Joint) Energy and Environmental Policy (Joint) Kansas Security (Joint)	*RM Member Member Member Member Member Member	1:30 pm On Call 8:30 am Tues/Wed On Call On Call On Call	446-N 446-N
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations (Joint) Agriculture Corrections and Juvenile Justice Oversight (Joint) Energy and Environmental Policy (Joint) Kansas Security (Joint) Natural Resources	*RM Member Member Member Member Member Member	1:30 pm On Call 8:30 am Tues/Wed On Call On Call 8:30 am Thur/Fri	446-N 446-N 446-N
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations (Joint) Agriculture Corrections and Juvenile Justice Oversight (Joint) Energy and Environmental Policy (Joint) Kansas Security (Joint)	*RM Member Member Member Member Member Member	1:30 pm On Call 8:30 am Tues/Wed On Call On Call On Call	446-N 446-N
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations (Joint) Agriculture Corrections and Juvenile Justice Oversight (Joint) Energy and Environmental Policy (Joint) Kansas Security (Joint) Natural Resources Ways and Means Lynn, Julia Republican, District 9 Room 142-E	*RM Member Member Member Member Member Member	1:30 pm On Call 8:30 am Tues/Wed On Call On Call 8:30 am Thur/Fri	446-N 446-N 446-N
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations (Joint) Agriculture Corrections and Juvenile Justice Oversight (Joint) Energy and Environmental Policy (Joint) Kansas Security (Joint) Natural Resources Ways and Means Lynn, Julia Republican, District 9	*RM Member Member Member Member Member Member	1:30 pm On Call 8:30 am Tues/Wed On Call On Call 8:30 am Thur/Fri	446-N 446-N 446-N
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations (Joint) Agriculture Corrections and Juvenile Justice Oversight (Joint) Energy and Environmental Policy (Joint) Kansas Security (Joint) Natural Resources Ways and Means Lynn, Julia Republican, District 9 Room 142-E (785) 296-7382 Committee Assessment and Taxation	*RM Member Member Member Member Member Member Member	1:30 pm On Call 8:30 am Tues/Wed On Call On Call 8:30 am Thur/Fri 10:30 am	446-N 446-N 545-N
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations (Joint) Agriculture Corrections and Juvenile Justice Oversight (Joint) Energy and Environmental Policy (Joint) Kansas Security (Joint) Natural Resources Ways and Means Lynn, Julia Republican, District 9 Room 142-E (785) 296-7382 Committee Assessment and Taxation Children's Issues (Joint)	*RM Member Member Member Member Member Member Member	1:30 pm On Call 8:30 am Tues/Wed On Call On Call 0n Call 8:30 am Thur/Fri 10:30 am Time 10:30 am On Call	446-N 446-N 545-N Room 535-N
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations (Joint) Agriculture Corrections and Juvenile Justice Oversight (Joint) Energy and Environmental Policy (Joint) Kansas Security (Joint) Natural Resources Ways and Means Lynn, Julia Republican, District 9 Room 142-E (785) 296-7382 Committee Assessment and Taxation Children's Issues (Joint) Commerce	*RM Member Member Member Member Member Member Member	1:30 pm On Call 8:30 am Tues/Wed On Call On Call 0n Call 8:30 am Thur/Fri 10:30 am In Call 8:30 am On Call 8:30 am	446-N 446-N 545-N Room
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations (Joint) Agriculture Corrections and Juvenile Justice Oversight (Joint) Energy and Environmental Policy (Joint) Kansas Security (Joint) Natural Resources Ways and Means Lynn, Julia Republican, District 9 Room 142-E (785) 296-7382 Committee Assessment and Taxation Children's Issues (Joint) Commerce Arts and Cultural Resources (Joint)	*RM Member Member Member Member Member Member Member Member	1:30 pm On Call 8:30 am Tues/Wed On Call On Call 0n Call 8:30 am Thur/Fri 10:30 am In Call 8:30 am On Call 8:30 am On Call	446-N 446-N 545-N Room 535-N
Room 162-E (785) 296-7366 Committee Utilities Administrative Rules and Regulations (Joint) Agriculture Corrections and Juvenile Justice Oversight (Joint) Energy and Environmental Policy (Joint) Kansas Security (Joint) Natural Resources Ways and Means Lynn, Julia Republican, District 9 Room 142-E (785) 296-7382 Committee Assessment and Taxation Children's Issues (Joint) Commerce	*RM Member Member Member Member Member Member Member	1:30 pm On Call 8:30 am Tues/Wed On Call On Call 0n Call 8:30 am Thur/Fri 10:30 am In Call 8:30 am On Call 8:30 am	446-N 446-N 545-N Room 535-N

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Marshall, Bob Republican, District 13 Room 141-E (785) 296-7370			
Committee	Rank	Time	Room
Transportation	Vice Chair	8:30 am Tues thru Fri	136-N
Assessment and Taxation	Member	10:30 am	535-N
Confirmation Oversight	Member	On Call	
Economic Development (Joint)	Member	On Call	
Education	Member	1:30 pm	545-N
Local Government	Member	9:30 am Mon/Tues	446-N
Masterson, Ty Republican, District 16 Room 547-N (785) 296-7388			
Committee	Rank	Time	Room
Financial Institutions and Insurance	Member	9:30 am	136-N
Special Claims Against the State (Joint)	Member	On Call	
Utilities	Member	1:30 pm	446-N
Ways and Means	Member	10:30 am	545-N
McGinn, Carolyn Republican, District 31 Room 222-E			
(785) 796-7377			
(785) 296-7377 Committee	Rank	Time	Room
Committee	Rank Chair	Time On Call	Room
			Room 446-N
Committee Energy and Environmental Policy (Joint)	Chair	On Call	
Committee Energy and Environmental Policy (Joint) Natural Resources	Chair	On Call	
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services	Chair Chair	On Call 8:30 am Thur/Fri	
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services Oversight (Joint)	Chair Chair Chair	On Call 8:30 am Thur/Fri On Call 10:30 am On Call	446-N
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services Oversight (Joint) Ways and Means Kansas Security (Joint) Local Government	Chair Chair Chair Vice Chair Member Member	On Call 8:30 am Thur/Fri On Call 10:30 am On Call 9:30 am Mon/Tues	446-N
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services Oversight (Joint) Ways and Means Kansas Security (Joint) Local Government Organization, Calendar and Rules	Chair Chair Chair Vice Chair Member Member Member	On Call 8:30 am Thur/Fri On Call 10:30 am On Call 9:30 am Mon/Tues On Call	446-N 545-N 446-N
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services Oversight (Joint) Ways and Means Kansas Security (Joint) Local Government	Chair Chair Chair Vice Chair Member Member	On Call 8:30 am Thur/Fri On Call 10:30 am On Call 9:30 am Mon/Tues	446-N 545-N
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services Oversight (Joint) Ways and Means Kansas Security (Joint) Local Government Organization, Calendar and Rules	Chair Chair Chair Vice Chair Member Member Member	On Call 8:30 am Thur/Fri On Call 10:30 am On Call 9:30 am Mon/Tues On Call	446-N 545-N 446-N
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services Oversight (Joint) Ways and Means Kansas Security (Joint) Local Government Organization, Calendar and Rules Utilities Morris, Stephen Republican, District 39 Room 371-E	Chair Chair Chair Vice Chair Member Member Member Member	On Call 8:30 am Thur/Fri On Call 10:30 am On Call 9:30 am Mon/Tues On Call 1:30 pm	446-N 545-N 446-N
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services Oversight (Joint) Ways and Means Kansas Security (Joint) Local Government Organization, Calendar and Rules Utilities Morris, Stephen Republican, District 39 Room 371-E (785) 296-2419 Committee Interstate Cooperation	Chair Chair Chair Vice Chair Member Member Member President Rank Chair	On Call 8:30 am Thur/Fri On Call 10:30 am On Call 9:30 am Mon/Tues On Call 1:30 pm	446-N 545-N 446-N 446-N
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services Oversight (Joint) Ways and Means Kansas Security (Joint) Local Government Organization, Calendar and Rules Utilities Morris, Stephen Republican, District 39 Room 371-E (785) 296-2419 Committee Interstate Cooperation Legislative Coordinating Council (Joint)	Chair Chair Chair Vice Chair Member Member Member President Rank Chair Chair	On Call 8:30 am Thur/Fri On Call 10:30 am On Call 9:30 am Mon/Tues On Call 1:30 pm	446-N 545-N 446-N 446-N
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services Oversight (Joint) Ways and Means Kansas Security (Joint) Local Government Organization, Calendar and Rules Utilities Morris, Stephen Republican, District 39 Room 371-E (785) 296-2419 Committee Interstate Cooperation Legislative Coordinating Council (Joint) Organization, Calendar and Rules	Chair Chair Chair Vice Chair Member Member Member President Rank Chair	On Call 8:30 am Thur/Fri On Call 10:30 am On Call 9:30 am Mon/Tues On Call 1:30 pm	446-N 545-N 446-N 446-N
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services Oversight (Joint) Ways and Means Kansas Security (Joint) Local Government Organization, Calendar and Rules Utilities Morris, Stephen Republican, District 39 Room 371-E (785) 296-2419 Committee Interstate Cooperation Legislative Coordinating Council (Joint) Organization, Calendar and Rules Pensions, Investments and	Chair Chair Chair Vice Chair Member Member Member President Rank Chair Chair Chair	On Call 8:30 am Thur/Fri On Call 10:30 am On Call 9:30 am Mon/Tues On Call 1:30 pm Time On Call On Call On Call On Call	446-N 545-N 446-N 446-N
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services Oversight (Joint) Ways and Means Kansas Security (Joint) Local Government Organization, Calendar and Rules Utilities Morris, Stephen Republican, District 39 Room 371-E (785) 296-2419 Committee Interstate Cooperation Legislative Coordinating Council (Joint) Organization, Calendar and Rules Pensions, Investments and Benefits (Joint)	Chair Chair Chair Vice Chair Member Member Member President Rank Chair Chair Chair Chair	On Call 8:30 am Thur/Fri On Call 10:30 am On Call 9:30 am Mon/Tues On Call 1:30 pm Time On Call On Call On Call On Call	446-N 545-N 446-N 446-N Room
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services Oversight (Joint) Ways and Means Kansas Security (Joint) Local Government Organization, Calendar and Rules Utilities Morris, Stephen Republican, District 39 Room 371-E (785) 296-2419 Committee Interstate Cooperation Legislative Coordinating Council (Joint) Organization, Calendar and Rules Pensions, Investments and Benefits (Joint) Agriculture	Chair Chair Chair Vice Chair Member Member Member President Rank Chair Chair Chair Chair Chair Chair	On Call 8:30 am Thur/Fri On Call 10:30 am On Call 9:30 am Mon/Tues On Call 1:30 pm Time On Call On Call On Call On Call S:30 am Tues/Wed	446-N 545-N 446-N 446-N Room
Committee Energy and Environmental Policy (Joint) Natural Resources Home and Community Based Services Oversight (Joint) Ways and Means Kansas Security (Joint) Local Government Organization, Calendar and Rules Utilities Morris, Stephen Republican, District 39 Room 371-E (785) 296-2419 Committee Interstate Cooperation Legislative Coordinating Council (Joint) Organization, Calendar and Rules Pensions, Investments and Benefits (Joint)	Chair Chair Chair Vice Chair Member Member Member President Rank Chair Chair Chair Chair	On Call 8:30 am Thur/Fri On Call 10:30 am On Call 9:30 am Mon/Tues On Call 1:30 pm Time On Call On Call On Call On Call	446-N 545-N 446-N 446-N Room

Ostmeyer, Ralph Republican, District 40 Room 262-E (785) 296-7399			
Committee	Rank	Time	Room
Agriculture	Vice Chair	8:30 am Tues/Wed	446-N
Administrative Rules and Regulations			
(Joint)	Member	On Call	
Federal and State Affairs	Member	10:30 am	136-N
Local Government	Member	9:30 am Mon/Tues	446-N
Owens, Thomas C. (Tim) Republican, District 8 Room 536-N (785) 296-7353			
Committee	Rank	Time	Room
Judiciary	Chair	9:30 am	545-N
Special Claims Against the State (Joint)	Chair	On Call	
Confirmation Oversight	Member	On Call	
Corrections and Juvenile Justice			
Oversight (Joint)	Member	On Call	
Education	Member	1:30 pm	545-N
Federal and State Affairs	Member	10:30 am	136-N
Kansas Security (Joint)	Member	On Call	
Petersen, Mike Republican, District 28 Room 242-E (785) 296-7355			
Committee	Rank	Time	Room
Utilities	Vice Chair	1:30 pm	446-N
Information Technology (Joint)	Member	On Call	
Local Government	Member	9:30 am Mon/Tues	446-N
Transportation	Member	8:30 am Tues thru Fri	136-N
Pilcher-Cook, Mary Republican, District 10 Room 221-E (785) 296-7362			
Committee	Rank	Time	Room
Judiciary	Member	9:30 am	545-N
Natural Resources	Member	8:30 am Thur/Fri	446-N
Public Health and Welfare	Member	1:30 pm	136-N
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Pyle, Dennis Republican, District 1 Room 221-E (785) 296-7379 Committee Agriculture Ethics and Elections Federal and State Affairs Special Claims Against the State (Joint) State-Tribal Relations (Joint)	Rank Member Member Member Member Member	Time 8:30 am Tues/Wed 9:30 am Wed/Thur 10:30 am On Call On Call	Room 446-N 446-N 136-N
Reitz, Roger Republican, District 22 Room 261-E (785) 296-7360			
Committee	Rank	Time	Room
Local Government	Chair	9:30 am Mon/Tues	446-N
Federal and State Affairs	Vice Chair	10:30 am	136-N
Children's Issues (Joint)	Member	On Call	
Commerce	Member	8:30 am	545-N
Energy and Environmental Policy (Joint)	Member	On Call	
Ethics and Elections	Member	9:30 am Wed/Thur	446-N
Health Policy Oversight (Joint)	Member	On Call	446 N
Utilities	Member	1:30 pm	446-N
Schmidt, Derek Republican, District 15 Room 392-E	Majority Lea	der	
(785) 296-2497	Rank	Time	Room
(785) 296-2497 Committee	Rank Chair	Time On Call	Room
(785) 296-2497 Committee Confirmation Oversight	Rank Chair Vice Chair	Time On Call 10:30 am	Room 535-N
(785) 296-2497 Committee	Chair	On Call	
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation	Chair Vice Chair	On Call 10:30 am	535-N
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary	Chair Vice Chair Vice Chair	On Call 10:30 am 9:30 am	535-N
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary Organization, Calendar and Rules Interstate Cooperation Legislative Coordinating Council (Joint)	Chair Vice Chair Vice Chair Vice Chair Member Member	On Call 10:30 am 9:30 am On Call On Call On Call	535-N
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary Organization, Calendar and Rules Interstate Cooperation	Chair Vice Chair Vice Chair Vice Chair Member	On Call 10:30 am 9:30 am On Call On Call	535-N
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary Organization, Calendar and Rules Interstate Cooperation Legislative Coordinating Council (Joint) Legislative Post Audit (Joint) Schmidt, Vicki Republican, District 20 Room 542-N	Chair Vice Chair Vice Chair Vice Chair Member Member	On Call 10:30 am 9:30 am On Call On Call On Call On Call	535-N
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary Organization, Calendar and Rules Interstate Cooperation Legislative Coordinating Council (Joint) Legislative Post Audit (Joint) Schmidt, Vicki Republican, District 20 Room 542-N (785) 296-7374	Chair Vice Chair Vice Chair Vice Chair Member Member Assistant Ma	On Call 10:30 am 9:30 am On Call On Call On Call On Call jority Leader	535-N 545-N
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary Organization, Calendar and Rules Interstate Cooperation Legislative Coordinating Council (Joint) Legislative Post Audit (Joint) Schmidt, Vicki Republican, District 20 Room 542-N (785) 296-7374 Committee	Chair Vice Chair Vice Chair Vice Chair Member Member Assistant Ma Rank	On Call 10:30 am 9:30 am On Call On Call On Call On Call jority Leader	535-N 545-N Room
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary Organization, Calendar and Rules Interstate Cooperation Legislative Coordinating Council (Joint) Legislative Post Audit (Joint) Schmidt, Vicki Republican, District 20 Room 542-N (785) 296-7374 Committee Ethics and Elections	Chair Vice Chair Vice Chair Vice Chair Member Member Assistant Ma	On Call 10:30 am 9:30 am On Call On Call On Call On Call jority Leader	535-N 545-N
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary Organization, Calendar and Rules Interstate Cooperation Legislative Coordinating Council (Joint) Legislative Post Audit (Joint) Schmidt, Vicki Republican, District 20 Room 542-N (785) 296-7374 Committee Ethics and Elections Administrative Rules and Regulations	Chair Vice Chair Vice Chair Vice Chair Member Member Assistant Ma Rank Chair	On Call 10:30 am 9:30 am On Call On Call On Call On Call jority Leader Time 9:30 am Wed/Thur	535-N 545-N Room
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary Organization, Calendar and Rules Interstate Cooperation Legislative Coordinating Council (Joint) Legislative Post Audit (Joint) Schmidt, Vicki Republican, District 20 Room 542-N (785) 296-7374 Committee Ethics and Elections Administrative Rules and Regulations (Joint)	Chair Vice Chair Vice Chair Member Member Assistant Ma Rank Chair Vice Chair	On Call 10:30 am 9:30 am On Call On Call On Call On Call jority Leader Time 9:30 am Wed/Thur On Call	535-N 545-N Room 446-N
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary Organization, Calendar and Rules Interstate Cooperation Legislative Coordinating Council (Joint) Legislative Post Audit (Joint) Schmidt, Vicki Republican, District 20 Room 542-N (785) 296-7374 Committee Ethics and Elections Administrative Rules and Regulations (Joint) Public Health and Welfare	Chair Vice Chair Vice Chair Vice Chair Member Member Assistant Ma Rank Chair	On Call 10:30 am 9:30 am On Call On Call On Call On Call jority Leader Time 9:30 am Wed/Thur	535-N 545-N Room
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary Organization, Calendar and Rules Interstate Cooperation Legislative Coordinating Council (Joint) Legislative Post Audit (Joint) Schmidt, Vicki Republican, District 20 Room 542-N (785) 296-7374 Committee Ethics and Elections Administrative Rules and Regulations (Joint)	Chair Vice Chair Vice Chair Member Member Assistant Ma Rank Chair Vice Chair Vice Chair	On Call 10:30 am 9:30 am On Call On Call On Call On Call jority Leader Time 9:30 am Wed/Thur On Call 1:30 pm	535-N 545-N Room 446-N
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary Organization, Calendar and Rules Interstate Cooperation Legislative Coordinating Council (Joint) Legislative Post Audit (Joint) Schmidt, Vicki Republican, District 20 Room 542-N (785) 296-7374 Committee Ethics and Elections Administrative Rules and Regulations (Joint) Public Health and Welfare Health Policy Oversight (Joint)	Chair Vice Chair Vice Chair Member Member Assistant Ma Rank Chair Vice Chair Vice Chair Member	On Call 10:30 am 9:30 am On Call On Call On Call On Call jority Leader Time 9:30 am Wed/Thur On Call 1:30 pm On Call	535-N 545-N Room 446-N
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary Organization, Calendar and Rules Interstate Cooperation Legislative Coordinating Council (Joint) Legislative Post Audit (Joint) Schmidt, Vicki Republican, District 20 Room 542-N (785) 296-7374 Committee Ethics and Elections Administrative Rules and Regulations (Joint) Public Health and Welfare Health Policy Oversight (Joint) Information Technology (Joint)	Chair Vice Chair Vice Chair Member Member Assistant Ma Rank Chair Vice Chair Vice Chair Member Member	On Call 10:30 am 9:30 am On Call On Call On Call Jority Leader 9:30 am Wed/Thur On Call 1:30 pm On Call On Call	535-N 545-N Room 446-N
(785) 296-2497 Committee Confirmation Oversight Assessment and Taxation Judiciary Organization, Calendar and Rules Interstate Cooperation Legislative Coordinating Council (Joint) Legislative Post Audit (Joint) Schmidt, Vicki Republican, District 20 Room 542-N (785) 296-7374 Committee Ethics and Elections Administrative Rules and Regulations (Joint) Public Health and Welfare Health Policy Oversight (Joint) Information Technology (Joint) Interstate Cooperation	Chair Vice Chair Vice Chair Member Member Assistant Ma Rank Chair Vice Chair Vice Chair Vice Chair Member Member Member	On Call 10:30 am 9:30 am On Call On Call On Call Jority Leader 9:30 am Wed/Thur On Call 1:30 pm On Call On Call On Call On Call On Call	535-N 545-N Room 446-N 136-N

Schodorf, Jean Republican, District 25 Room 241-E (785) 296-7391	Assistant Majority Whip			
Committee	Rank	Time	Room	
Education	Chair	1:30 pm	545-N	
Arts and Cultural Resources (Joint)	Vice Chair	On Call		
Commerce	Member	8:30 am	545-N	
Confirmation Oversight	Member	On Call		
Interstate Cooperation	Member	On Call		
Judiciary	Member	9:30 am	545-N	
Ways and Means	Member	10:30 am	545-N	
Steineger, Chris Democrat, District 6 Room 181-E (785) 296-7375 Committee Financial Institutions and Insurance Administrative Rules and Regulations (Joint) Assessment and Taxation Education Information Technology (Joint) Legislative Post Audit (Joint)	Rank *RM Member Member Member Member Member Member Member	Time 9:30 am On Call 10:30 am 1:30 pm On Call On Call	Room 136-N 535-N 545-N	
Taddiken, Mark Republican, District 21 Room 222-E (785) 296-7371				
Committee	Rank	Time	Room	
Agriculture	Chair	8:30 am Tues/Wed	446-N	
Energy and Environmental Policy (Joint)	Member	On Call		
Financial Institutions and Insurance	Member	9:30 am	136-N	
Natural Resources	Member	8:30 am Thur/Fri	446-N	
Utilities	Member	1:30 pm	446-N	
Ways and Means	Member	10:30 am	545-N	

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Teichman, Ruth Republican, District 33 Room 241-E (785) 296-7394			
Committee	Rank	Time	Room
Financial Institutions and Insurance	Chair	9:30 am	136-N
Natural Resources	Vice Chair	8:30 am Thur/Fri	446-N
Education	Member	1:30 pm	545-N
Organization, Calendar and Rules	Member	On Call	
Pensions, Investments and			
Benefits (Joint)	Member	On Call	
Ways and Means	Member	10:30 am	545-N
(a)s and means			0.010
Umbarger, Dwayne Republican, District 14 Room 549-N (785) 296-7389			
Committee	Rank	Time	Room
Transportation	Chair	8:30 am Tues thru Fri	136-N
State Building Construction (Joint)	Vice Chair	On Call	10010
Arts and Cultural Resources (Joint)	Member	On Call	
Education	Member	1:30 pm	545-N
Home and Community Based Services		neo più	0.010
Oversight (Joint)	Member	On Call	
Judiciary	Member	9:30 am	545-N
Legislative Post Audit (Joint)	Member	On Call	01011
Organization, Calendar and Rules	Member	On Call	
Ways and Means	Member	10:30 am	545-N
Ways and means	memoer	10.50 ull	51511
Vratil, John Republican, District 11 Room 281-E (785) 296-7361	Vice Presiden	t	
Committee	Rank	Time	Room
Education	Vice Chair	1:30 pm	545-N
Ways and Means	Vice Chair	10:30 am	545-N
Interstate Cooperation	Member	On Call	5-15-11
Judiciary	Member	9:30 am	545-N
Organization, Calendar and Rules	Member	On Call	J-1J-1N
State-Tribal Relations (Joint)	Member	On Call	
State-110al Relations (Joint)	wichioci	on can	

Wagle, Susan Republican, District 30 Room 221-E (785) 296-7386			
Committee	Rank	Time	Room
Local Government	Vice Chair	9:30 am Mon/Tues	446-N
Children's Issues (Joint)	Member	On Call	
Commerce	Member	8:30 am	545-N
Education	Member	1:30 pm	545-N
Ethics and Elections	Member	9:30 am Wed/Thur	446-N
Wysong, David Republican, District 7 Room 141-E (785) 296-7369			
Committee	Rank	Time	Room
Commerce	Chair	8:30 am	545-N
Economic Development (Joint)	Vice Chair	On Call	
Ethics and Elections	Member	9:30 am Wed/Thur	446-N
Public Health and Welfare	Member	1:30 pm	136-N
Ways and Means	Member	10:30 am	545-N

*Ranking Minority Member

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Constitutional Provisions Governing the Kansas Legislature



State of Kansas

KANSAS CONSTITUTIONAL PROVISIONS CONCERNING LEGISLATIVE POWERS

Article 2.—LEGISLATIVE

§ 1. Legislative power.—The legislative power of this state shall be vested in a house of representatives and senate.

§ 2. Senators and representatives.—The number of representatives and senators shall be regulated by law, but shall not exceed one hundred twenty-five representatives and forty senators. Representatives and senators shall be elected from single-member districts prescribed by law. Representatives shall be elected for two year terms. Senators shall be elected for four year terms. The terms of representatives and senators shall commence on the second Monday of January of the year following election.

§ 3. Compensation of members of legislature.—The members of the legislature shall receive such compensation as may be provided by law or such compensation as is determined according to law.

§ 4. Qualifications of members.—During the time that any person is a candidate for nomination or election to the legislature and during the term of each legislator, such candidate or legislator shall be and remain a qualified elector who resides in his or her district.

§ 5. Eligibility and disqualification of members.—No member of congress and no civil officer or employee of the United States or of any department, agency, or instrumentality thereof shall be eligible to be a member of the legislature. Any member of the legislature who accepts any appointment or election contrary to the foregoing shall be disqualified as a member of the legislature.

§ 6. This section was eliminated by the 1974 revision of this article.

§ 7. This section was eliminated by the 1974 revision of this article.

§ 8. Organization and sessions.—The legislature shall meet in regular session annually commencing on the second Monday in January, and all sessions shall be held at the state capital. The duration of regular sessions held in even-numbered years shall not exceed ninety calendar days. Such sessions may be extended beyond ninety calendar days by an affirmative vote of two-thirds of the members elected to each house. Bills and concurrent resolutions under consideration by the legislature upon adjournment of a regular session held in an odd-numbered year may be considered at the next succeeding regular session held in an even-numbered year, as if there had been no such adjournment.

The legislature shall be organized concurrently with the terms of representatives except that the senate shall remain organized during the terms of senators. The president of the senate shall preside over the senate, and the speaker of the house of representatives shall preside over the house of representatives. A majority of the members than elected (or appointed) and qualified of the house of representatives or the senate shall constitute a quorum of that house. Neither house, without the consent of the other, shall adjourn for more than two days, Sundays excepted. Each house shall elect its presiding officer and determine the rules of its proceedings, except that the two houses may adopt joint rules on certain matters and provide for the manner of change thereof. Each house shall provide for the expulsion or censure of members in appropriate cases. Each house shall be the judge of elections, returns and qualifications of its own members.

§ 9. Vacancies in legislature.—All vacancies occurring in either house shall be filled as provided by law.

§ 10. Journals.—Each house shall publish a journal of its proceedings. The affirmative and negative votes upon the final passage of every bill and every concurrent resolution for amendment of this constitution or ratification of an amendment to the Constitution of the United States shall be entered in the journal. Any member of either house may make written protest against any act or resolution, and the same shall be entered in the journal without delay or alteration.

§ 11. This section was eliminated by the 1974 revision of this article.

§ 12. Origination by either house.—Bills and concurrent resolutions may originate in either house, but may be amended or rejected by the other.

§ 13. Majority for passage of bills.—A majority of the members then elected (or appointed) and qualified of each house, voting in the affirmative, shall be necessary to pass any bill. Two-thirds (²/₃) of the members then elected (or appointed) and qualified in each house, voting in the affirmative, shall be necessary to ratify any amendment to the Constitution of the United States or to make any application for congress to call a convention for proposing amendments to the Constitution of the United States.

§ 14. Approval of bills; vetoes.—(a) Within ten days after passage, every bill shall be signed by the presiding officers and presented to the governor. If the governor approves a bill, he shall sign it. If the governor does not approve a bill, the governor shall veto it by returning the bill, with a veto message of the objections, to the house of origin of the bill. Whenever a veto message is so received, the message shall be entered in the journal and in not more than thirty calendar days (excluding the day received), the house of origin shall reconsider the bill. If two-thirds of the members then elected (or appointed) and qualified shall vote to pass the bill, it shall be sent, with the veto message, to the other house, which shall in not more than thirty calendar days (excluding the day received) also reconsider the bill, and if approved by two-thirds of the members

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then elected (or appointed) and qualified, it shall become a law, notwithstanding the governor's veto.

If any bill shall not be returned within ten calendar days (excluding the day presented) after it shall have been presented to the governor, it shall become a law in like manner as if it had been signed by the governor.

(b) If any bill presented to the governor contains several items of appropriation of money, one or more of such items may be disapproved by the governor while the other portion of the bill is approved by the governor. In case the governor does so disapprove, a veto message of the governor stating the item or items disapproved, and the reasons therefor, shall be appended to the bill at the time it is signed, and the bill shall be returned with the veto message to the house of origin of the bill. Whenever a veto message is so received, the message shall be entered in the journal and, in not more than thirty calendar days, the house of origin shall reconsider the items of the bill which have been disapproved. If twothirds of the members then elected (or appointed) and gualified shall vote to approve any item disapproved by the governor, the bill, with the veto message, shall be sent to the other house, which shall in not more than thirty calendar days also reconsider each such item so approved by the house of origin, and if approved by two-thirds of all the members then elected (or appointed) and qualified, any such item shall take effect and become a part of the bill.

§ 15. Requirements before bill passed.—No bill shall be passed on the day that it is introduced, unless in case of emergency declared by two-thirds of the members present in the house where a bill is pending.

§ 16. Subject and title of bills; amendment or revival of statutes.—No bill shall contain more than one subject, except appropriation bills and bills for revision or codification of statutes. The subject of each bill shall be expressed in its title. No law shall be revived or amended, unless the new act contain the entire act revived or the section or sections amended, and the section or sections so amended shall be repealed. The provisions of this section shall be liberally construed to effectuate the acts of the legislature.

§ 17. Uniform operation of laws of a general nature.—All laws of a general nature shall have a uniform operation throughout the state: *Provided*, The legislature may designate areas in counties that have become urban in character as "urban areas" and enact special laws giving to any one or more of such counties or urban areas such powers of local government and consolidation of local government as the legislature may deem proper.

§ 18. Election or appointment of officers; filling vacancies.— The legislature may provide for the election or appointment of all officers and the filling of all vacancies not otherwise provided for in this constitution. **§ 19. Publication of acts.**—No act shall take effect until the enacting bill is published as provided by law.

§ 20. Enacting clause of bills; laws enacted only by bill.—The enacting clause of all bills shall be "Be it enacted by the Legislature of the State of Kansas:". No law shall be enacted except by bill.

§ 21. Delegation of powers' of local legislation and administration.—The legislature may confer powers of local legislation and administration upon political subdivisions.

§ 22. Legislative immunity.—For any speech, written document or debate in either house, the members shall not be questioned elsewhere. No member of the legislature shall be subject to arrest—except for treason, felony or breach of the peace—in going to, or retruning from, the place of meeting, or during the continuance of the session; neither shall he be subject to the service of any civil process during the session, nor for fifteen days previous to its commencement.

23. This section was eliminated by the 1974 revision of this article.

§ 24. Appropriations.—No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law.

§ 25. This section was eliminated by the 1974 revision of this article.

 \S 26. This section was repealed by the adoption of 1972 HCR 1097, on Aug. 1, 1972.

§ 27. Impeachment.—The house of representatives shall have the sole power to impeach. All impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall take an oath to do justice according to the law and the evidence. No person shall be convicted without the concurrence of two-thirds of the senators then elected (or appointed) and qualified.

§ 28. Officers impeachable; grounds; punishment.—The governor and all other officers under this constitution, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdeameanors.

§ 29. This section was eliminated by the 1974 revision of this article.

§ 30. Delegations to interstate bodies.—The legislature may confer legislative powers upon interstate bodies, comprised of officers of this state or its political subdivisions acting in conjunction with officers of other jurisdictions, relating to the functions thereof. Any such delegation, and any agreement made thereunder shall be subject to limitation, change or termination by the legislature, unless contained in a compact approved by the congress.

Rules of the Kansas Senate



State of Kansas 2009-2012

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RULES OF THE SENATE 2009-2012

Rule 1. Time of Meetings. The Senate on the first day of a session shall convene at 2:00 p.m., and at all other times shall convene at 2:30 p.m., unless otherwise ordered by the Senate.

Rule 2. Convening – Quorum. The President shall take the chair at the hour fixed for the convening of the Senate, and the roll shall be called in order to ascertain if a quorum is present. A majority of the Senators then elected (or appointed) and qualified shall constitute a quorum, and, in the absence of a quorum, the Senators present, by majority vote, may take such measures as they shall deem necessary to secure the presence of a quorum.

Rule 3. Absence of Member. No Senator shall fail to attend when the Senate is in session without first obtaining leave of the Senate, unless prevented from attending by sickness or other sufficient cause.

Rule 4. Order of Business. The order of business, following the roll call and prayer by the Chaplain, shall be as follows:

- 1. Introduction and reference of bills and concurrent resolutions.
- 2. Consideration of messages from the Governor.
- 3. Communications from state officers.
- 4. Consideration of messages from the House of Representatives.
- 5. Consideration of motions to concur or nonconcur.
- 6. Reports of select committees.
- 7. Consent Calendar.
- 8. Final Action on bills and concurrent resolutions.
- 9. Introduction of original motions and senate resolutions.
- 10. Correction and approval of the Journal.
- 11. Consideration of motions and senate resolutions.
- 12. Reports of standing committees.
- 13. General orders.

The presentation of petitions shall be a special order of business on Friday of each week immediately preceding the regular order of business.

Rule 5. Business in Order at Any Time. Messages from the Governor, messages from the House of Representatives, introduction and reference of bills and concurrent resolutions, reports of standing committees and reports of select committees may be received and considered under any order of business.

Rule 6. Special Order. Whenever any bill or other matter is made the special order for a particular day, and shall not be reached or completed on that day, it shall be returned to its place in the General Orders, unless it shall

be made the special order for another day. When any special order is under consideration, it shall take precedence over any special order for a subsequent hour of the same day, but such subsequent special order shall be taken up immediately after the previous order has been disposed of. Notation of a special order shall be placed before the first order of business on the calendar for that day, giving the subject to be considered and the time fixed for its consideration. When that time arrives, other business shall be suspended until the special order has been considered.

Rule 7. Standing Committees. There shall be a standing committee named the Committee on Organization, Calendar and Rules which shall consist of nine members, the chairperson of which shall be the president of the senate, and the vice chairperson of which shall be the majority leader of the Senate. The Vice President of the Senate shall be a member of the committee. Each of the other six members shall be selected separately by the majority political party of the Senate.

No bill or resolution other than resolutions adopting, amending or revoking rules of the Senate or Joint Rules of the Senate and House of Representatives, shall be introduced by or be referred to the Committee on Organization, Calendar and Rules.

Number

The following shall be the other standing committees:

			, anno er
	C	of	members
1. Agriculture			9
2. Assessment and Taxation			
3. Commerce			9
4. Confirmation Oversight Committee			6
5. Education			11
6. Ethics and Elections			9
7. Federal and State Affairs			9
8. Financial Institutions and Insurance			9
9. Interstate Cooperation			7
10. Judiciary			11
11. Local Government			
12. Natural Resources			9
13. Public Health and Welfare			9
14. Reapportionment			13
15. Transportation			
16. Utilities			
17. Ways and Means			13

The Committee on Organization, Calendar and Rules shall appoint the members of each committee, shall appoint the chairperson and vice chairperson or vice chairpersons thereof and shall designate the ranking

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minority member of each committee. The minority leader shall submit recommendations for the appointment of minority members to the standing committees of the Senate to the Committee on Organization, Calendar and Rules. The Committee on Organization, Calendar and Rules shall have a standing subcommittee on calendar which shall be the president of the senate, the vice president of the senate and the majority leader of the Senate. The Majority Leader shall be the chairperson of the subcommittee. The Committee on Organization, Calendar and Rules may establish such other subcommittees of the Committee on Organization, Calendar and Rules as the Committee deems appropriate.

For the purpose of considering committee member appointments, and appointments of chairpersons, vice-chairpersons and ranking minority members, and for such other purposes as may be authorized by law, by the joint rules of the senate and the house of representatives or by rules of the senate for closed meetings, the Committee on Organization, Calendar and Rules may close its meetings.

The two major political parties shall have proportional representation on each standing committee other than the Committee on Organization, Calendar and Rules. In the event application of the preceding sentence results in a fraction, the party having a fraction exceeding .5 shall receive representation as though such fraction were a whole number.

Rule 8. Special and Select Committees. Special and Select committees of the Senate and the Chairperson thereof shall be appointed by the President.

Rule 9. Standing Committees – Duties of Chairperson, etc. (a) The chairperson of each committee shall preside at all meetings of the committee. The chairperson may designate another member to preside in the absence of the chairperson and vice chairperson.

(b) The chairperson of each committee may call a special meeting of the committee when necessary.

(c) The chairperson shall have full charge of the committee.

(d) The chairperson of each committee shall cause minutes of each meeting of the committee to be prepared, subject to approval of the committee at a later meeting. Minutes shall show the action taken by the committee upon each bill or resolution considered and the amendments if any voted upon and the disposition of each, whether adopted or not. At the request of the author of a bill or resolution or any amendment to a bill or resolution, or on request of any member of the committee, the intent of the author shall be stated in the committee minutes. At the conclusion of each legislative session copies of all committee minutes shall be filed with the Director of Legislative Administrative Services.

Rule 10. Vote in Senate Committee. At the time of taking any action upon any bill or resolution, any member of a committee may demand a division of the vote and the chairperson shall be required to record the results of the vote as a part of the minutes.

Rule 11. Committee Action on Bills and Resolutions. (a) A committee may recommend that the Senate act favorably, unfavorably or without recommendation upon any measure or may recommend amendments to measures referred to it which are germane to the subject of the measure. Committee recommendations shall be made by committee report to the Senate. Committee reports shall be signed by the chairperson, and shall be transmitted to the Senate not later than the second legislative day following the action of the committee.

(b) When a committee fails to report on any bill or resolution following reference to such committee, it may be withdrawn from the committee by an affirmative vote of 24 members of the Senate on a motion made as provided in this subsection. Such a motion shall be made in writing, giving the reasons for withdrawal from the committee. Such motion shall be made under the order of business introduction and notice of original motions and Senate resolutions. Only one bill or resolution may be named in such a motion. The motion shall be read by the reading clerk or the member making the motion and shall be printed in the calendar of the next legislative day under the order of business consideration of motions and Senate resolutions offered on a previous day. The motion shall be considered on the legislative day following the day it is made. If the motion prevails, the bill or resolution shall be placed on the calendar under the order of business General Orders.

(c) Motions to withdraw a bill or resolution from a committee are not subject to amendment or debate.

Rule 12. Adversely Reported Bills and Resolutions. All bills or resolutions adversely reported shall go upon the Calendar for one day, under the head of Bills Adversely Reported. A motion to place an adversely reported bill (or resolution) under the order of business General Orders on the Calendar shall be made when the bill (or resolution) is upon the Calendar and shall be made when Introduction of Original Motions and Senate Resolutions is in order, and that motion shall then lie over until the next legislative day when the order of business Consideration of Motions and Senate Resolutions is reached, but if such motion is defeated once it shall not be renewed. If an adversely reported bill or resolution has been previously referred separately under Rule 32 (authorizing the reference of the same bill or resolution to two or more standing committees), then the motion shall be to return the adversely reported bill (or resolution) with the committee report attached to the next committee to which it was referred. If the motion to place the bill (or resolution) on the Calendar under the order

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of business General Orders or to return the bill (or resolution) to the next committee of reference shall prevail, then the words "Adversely Reported" shall be printed in a line underneath the title of the bill or resolution, and to prevail such motion shall require an affirmative vote of 24 members of the Senate.

Rule 13. When Bill or Concurrent Resolution Placed on General Orders. When a bill or a concurrent resolution to amend the constitution has been reported to the Senate by a committee with the recommendation that it pass or be adopted, it shall immediately be placed on the Calendar under the order of business General Orders.

Rule 14. Address the President – To Be Recognized – Speak But Twice on the Same Subject. Every Senator rising to debate or to present any matter, shall address the President, and shall not proceed until recognized. When two or more Senators shall address the President at the same time, the President shall name the Senator who is to speak first. No Senator shall speak more than twice on the same day on the same subject without leave of the Senate.

Rule 15. No Senator Shall Be Interrupted. No Senator, when speaking shall be interrupted except by a call to order by the presiding officer, or by a Senator through the presiding officer, desiring to ask a question. If a Senator speaking yields to a question, the interruption shall be confined solely to such question. Senators shall be referred to as "the Senator from _____" (naming the Senator's home county) followed by the Senator's title and name.

Rule 16. Personal Privilege. Senators raising a point of personal privilege shall confine themselves to remarks which concern themselves personally and shall not address or debate matters under consideration by the Senate.

Rule 17. Questions of Order – How Determined. A question of order may be raised at any time and when a Senator shall be called to order the Senator shall stop speaking until the presiding officer has determined whether the Senator was in order. Every question of order shall be decided by the presiding officer, subject to an appeal to the Senate by any member.

Rule 18. Explaining Votes. Senators may explain their votes only upon the call of their names upon any roll call vote, but not more than two minutes shall be allowed for any explanation. The explanation shall be inserted in the Journal if the Senator makes a request at the time of voting or makes a request of the Secretary of the Senate prior to adjournment, and the written explanation is presented to the Secretary of the Senate during or within two hours following that day's adjournment on the same legislative day. No Senator in explaining a vote may use the name of or otherwise identify any other Senator as part of the explanation without the consent of the other Senator. No written explanation shall contain more than 200 words.

Rule 19. Vote Unless Excused – Contempt. Any Senator, who is directly interested in a question, may be excused from voting, even though there is a call of the Senate. The Senator, who is requesting to be excused from voting, shall state the reasons for the request, occupying not more than five minutes. Such statements shall be made either immediately before or immediately after the vote is called but before the result is announced. The question on excusing any Senator from voting shall be taken without debate and a 2/3 majority of those voting shall be necessary to excuse the Senator. If a Senator refuses to vote, when not excused, such refusal shall constitute contempt and the President shall, in such case, order the offending Senator before the bar of the Senate and all privileges of membership shall be refused such Senator until the contempt shall be duly purged.

Rule 20. When Not Permitted to Vote. No Senator shall be allowed to vote unless the Senator is seated in the Senator's assigned seat within the Senate chamber when the vote is taken.

Rule 21. Vice President and Filling Certain Vacancies. (a) In the absence of the President, the Vice President shall assume the duties of the President. The President or Vice President may also name any Senator to temporarily perform the duties of the chair, but the Senator so named shall not act as President beyond adjournment, unless by leave of the Senate. A Senator shall not lose the right of voting on any subject while serving or acting as President.

(b) When a vacancy occurs in the office of President and the Legislature is adjourned to a date more than 60 days after the occurrence of the vacancy, the Senate shall meet within 30 days and elect a member to fill the vacancy. The Vice President shall within 10 days of such occurrence issue a call for the meeting at a time not less than 10 days and not more than 20 days after the date of the call.

(c) When a vacancy occurs in the office of Vice President or majority leader of the Senate, and the Legislature is adjourned to a date more than 30 days after the occurrence of the vacancy, the President shall appoint an acting Vice President or acting majority leader to serve until the convening of the next session of the Legislature, at which time the vacancy shall be filled as though the acting interim appointment had not been made.

(d) When a vacancy occurs in the office of minority leader of the Senate and the Legislature is adjourned to a date more than 30 days after the occurrence of the vacancy, the assistant minority leader shall become the

acting minority leader to serve until the convening of the next session of the Legislature, at which time the vacancy shall be filled as though the acting minority leader had not so served.

(e) It is the intention of this rule that any person elected, appointed or designated to serve in accordance herewith to fill a vacancy shall exercise all of the duties and powers of the office so filled.

Rule 22. Party Affiliation – Change. If any Senator changes political party affiliation (1) from the political party of such Senator at the time of the Senator's election, or (2) if the Senator was appointed, from the political party of the district convention which elected such person to be so appointed, the following shall apply:

(a) Such Senator shall be removed from all memberships on standing and other committees, from all positions of chairperson or vice chairperson of a standing or other committee, and from any office of the Senate held at the time of such change. The Committee on Organization, Calendar and Rules shall appoint a Senator to fill any vacancy which arises under this subpart (a).

(b) The proportion of Senators from major political parties on each standing committee originally determined under Rule 7 (providing for proportional representation of members of political parties upon standing committees) shall not be altered. The Committee on Organization, Calendar and Rules shall fill each standing committee member position vacated by such Senator by appointing a Senator of the political party from which such Senator changed.

Rule 23. Caucuses May Be Closed. Caucuses of Senate majority and minority parties may be closed.

Rule 24. Motions in Writing. All motions to amend bills and resolutions shall be made in writing, and upon request of any Senator shall be read by the reading clerk before being voted upon. All other motions shall be reduced to writing when desired by any Senator.

Rule 25. Motions Withdrawn. Any motion may be withdrawn by the maker before amendment or decision is made thereon except as the foregoing is modified by Rule 41 (relating to procedure in the committee of the whole).

Rule 26. Motions in Order When Question Under Debate. When

a question is under debate, no motion shall be in order, except:

Not Debatable

- 1. To fix time to which to adjourn.
- 2. To adjourn.
- 3. To lay on the table.
- 4. For the previous question. Debatable
- 5. To postpone to a day certain.
- 6. To commit to a standing committee.
- 7. To commit to a special committee.
- 8. To commit to the Committee of the Whole.
- 9. To amend.
- 10. To postpone indefinitely.

The several motions specified in this rule shall have precedence in the order named and the first four shall be decided without debate.

Rule 27. Division of Question. (a) If the question in debate contains several points, any Senator may have the same divided, but a motion to strike out and insert shall be indivisible. When a bill or resolution is under consideration in the Senate and after debate is concluded and final action has been announced on the bill or resolution, a request for division of question shall not be in order.

(b) A request for division of question shall be in writing specifying the manner in which the question is to be divided.

(c) The rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert another proposition, nor prevent a subsequent motion simply to strike out; nor shall the rejection of a motion simply to strike out prevent a subsequent motion to strike out and insert.

Rule 28. Reconsideration of Pending Matters. When a question has been once put and decided it shall be in order for any Senator who voted with the prevailing side to move for a reconsideration thereof, but no motion for reconsideration of any vote shall be in order after the bill, resolution, message, report, amendment or motion, upon which the vote was taken, shall have gone out of the possession of the Senate, nor shall any motion for reconsideration be in order unless made on the same day on which the vote was taken or the next legislative day. No question shall be reconsidered more than once.

Rule 29. Previous Questions. Five Senators shall have the right to move the previous question on any bill, resolution, message, report, amendment, or motion. If no amendment is pending the previous question shall be as follows: "Shall the main question be now put?" If the previous

question is decided in the affirmative by a majority vote of those present the main question shall be put without further amendment or debate. If amendments are pending a motion for the previous question shall concern only the last amendment that is pending on which, if the previous question is adopted, the debate will be closed only upon such amendment. The previous question on other questions than the main question shall be as follows: "Shall the question on the (amendment, amendment of an amendment, substitute or other motion affecting same as the case may be) now be put?"

Rule 30. Endorsement on Bills, etc. Before any bill, resolution or petition, addressed to the Senate, shall be received or read, the title of the bill or resolution or a brief statement of the contents of the petition shall be typed on the jacket, with the name of the Senator or committee introducing it.

Rule 31. Introduction of Bills and Concurrent Resolutions. Every bill and concurrent resolution shall be introduced by a Senator, by a committee, on the report of a committee, by message from the House of Representatives, or by proper prefiling as provided by law. For the purpose of introduction, every bill and concurrent resolution shall be placed in the possession of the secretary and the reading clerk shall read the title, except citations of statutes amended or repealed. The reading clerk shall also read the name of the sponsor of the bill or resolution if it has a single sponsor. If the bill or resolution has two sponsors the reading clerk shall read the names of both sponsors, but if the bill or resolution has more than two sponsors the reading clerk shall read the sponsor together with the words "and others."

Rule 32. Reference of Bills and Resolutions. All bills shall be referred or rereferred to appropriate standing committees or the committee of the whole by the President. Upon the day of its introduction or upon the next legislative day the President shall refer every bill and each concurrent resolution to be referred to the appropriate standing committee or the committee of the whole. Bills or resolutions prefiled under K.S.A. 46-801 et seq. and amendments thereto may be referred by the President to the appropriate standing committee or the committee of the whole at any time subsequent to the prefiling of such bill or resolution with the secretary of the senate. Bills introduced by committees, if germane to the purpose and scope of the committee, may be referred to the Committee of the Whole; otherwise to the appropriate standing committee. All bills making an appropriation shall be referred to the Committee on Ways and Means. The President may refer a bill or resolution to two or more standing committees jointly, or separately, in such order as the President may direct, and such bill or resolution, when so referred, shall be considered by the committees in joint meeting, or by each of the committees separately in the order named in the reference, and when the reference is made jointly, the chairperson of the committee named first shall be chairperson of the joint committee.

Rule 33. Consent Calendar and Recording Reports. Whenever a standing committee is of the opinion that a bill or resolution upon which it is reporting is of non-controversial nature, it shall so state in its committee report. Whenever a bill or resolution is so reported, it shall be placed upon a separate calendar, to be known as the Consent Calendar. Each bill or resolution appearing on the Consent Calendar shall remain thereon for at least two full legislative days before being considered under the order of business Final Action. At any time prior to the call for the vote under the order of business Final Action on a bill or resolution on the Consent Calendar, any member may object to the same as being controversial and the same shall be stricken from the Consent Calendar and take its place on General Orders in the usual order. If no such objection is made prior to the call for such vote on the bill or resolution, it shall be voted upon with other bills and resolutions under the order of business Final Action but before consideration of other bills or resolutions appearing on the calendar under such order of business.

Rule 34. Final Action on Bills and Concurrent Resolutions. On final action on any bill or concurrent resolution, the reading clerk shall read the title, except citations to statutes amended or repealed. If the bill is reported for final action without debate, the question shall be at once put: "Shall the bill pass?" No debate shall be allowed, and no motion shall be in order except the motion to adjourn, or for a call of the Senate, unless in case where a bill has been ordered to be placed on final action subject to amendment, or to amendment and debate or unless by the unanimous consent of the Senate, amendments may be made and considered. Like procedure shall apply to concurrent resolutions except that the question put shall be: "Shall the resolution be adopted?" On final action, bills and resolutions may be bulked together for roll call unless objection be made by any Senator.

Rule 35. Final Passage by Yeas and Nays. The question upon the final passage of a bill and every concurrent resolution for amendment of the constitution of Kansas or ratification of an amendment to the Constitution of the United States shall be taken by a roll call vote of the yeas and nays, which shall be entered on the Journal, and unless the bill or concurrent resolution receives the number of votes required by the constitution to pass it, it shall be declared lost, except in cases provided for in Rule 36 (relating to the absence of a quorum).

Rule 36. No Quorum on Final Vote – Effect. If, on taking the vote on final action on a bill or concurrent resolution, it shall appear that a quorum is not present, then the bill or concurrent resolution shall retain its place on the Calendar and shall again be considered for final action when that order of business is again taken up by the Senate.

Rule 37. Roll Call Vote. A roll call vote shall be taken upon all questions upon the demand of five Senators.

Rule 38. Call of Senate – When Made – How Enforced. A call of the Senate may be had upon the demand of five Senators, pending a roll call on the final passage of any bill or resolution, or on any motion to strike the enacting clause, or indefinitely postpone any bill or resolution, and before the result is announced. When a call is demanded, the President shall order the doors of the Senate to be closed, and direct the Secretary to call the roll of the Senators and note the absentees, after which the names of the absentees shall be again called, and those for whose absence no sufficient excuse is given may be sent for and taken into custody by the Sergeant at Arms, or by Assistant Sergeants at Arms appointed for the purpose, and brought before the bar of the Senate, where unless excused by a majority of the Senators present, they shall be reproved by the President for the neglect of duty.

Rule 39. Dispense with Further Proceedings under Call of Senate. No motion to dispense with further proceedings under the call of the Senate shall be entertained until the President shall be satisfied that the Sergeant at Arms has made diligent effort to secure the attendance of the absentees.

Rule 40. Roll Call Votes. Every Senator in the Senate chamber when a roll call is taken shall respond when the Senator's name is called. If there is a call of the Senate, the Senator must vote Yea or Nay, except as provided in Rule 19 (senators excused from voting if directly interested in the question). When there is no call of the Senate, the Senator may pass and shall be recorded in the Journal as present and passing. After the roll is completed and before the roll is closed, a Senator may change such Senator's vote. No vote shall be recorded and no change in vote may be made without unanimous consent of the Senate after announcement by the presiding officer that the roll is closed.

Rule 41. Committee of the Whole. On motion the Senate may go into Committee of the Whole. The President shall appoint a chairperson to preside over the Committee of the Whole. The rules of the Senate shall be observed in the Committee of the Whole, so far as applicable except that there shall be no limit on the number of times of speaking and Rule 38 (authorizing a call of the senate) shall not apply. A motion to lay on the table or a call for the previous question shall not be in order. No substitute motion to amend a bill or resolution shall be in order. A substitute motion to report a bill or resolution to the full Senate once made shall be decided subject only to debate and Rule 51 (motion to strike the enacting or resolving clause). A roll call shall be had on any question subject to the requirements of Rule 37.

Rule 42. No Quorum in Committee of the Whole – Procedure. If at any time, when in Committee of the Whole, it be ascertained that there is no quorum present, the chairperson shall immediately vacate the chair and report the fact to the President.

Rule 43. How Bills or Resolutions Considered – Committee of the Whole. Bills or resolutions shall be considered in Committee of the Whole in the following manner: The standing committee report shall first be considered and if it is adopted the bill or resolution as amended by the committee report shall be considered section by section, and as each section is considered, amendments from the floor are in order to that section. If the committee report is not adopted, the bill or resolution, without committee amendments, shall be considered section by section, and as each section is considered amendments from the floor are in order to that section. After a section has been considered, no amendment thereto shall be in order until the whole bill or resolution has been read through. After the original bill or resolution, together with standing committee amendments, has been considered section by section the chairperson shall announce "Amendments to the bill (or resolution) generally are in order," and amendments not before offered may be made to any part of the bill or resolution. A motion to amend the bill or resolution shall not be in order while a motion to strike the enacting clause or resolving clause is pending.

Rule 44. Amendments. (1) Amendments to bills shall be germane to the subject of the bill being amended, and the fact that an amendment is to a section in the same chapter of the Kansas Statutes Annotated as an existing section in the bill shall not automatically render the amendment germane. Amendments to concurrent resolutions for amendments of the constitution of Kansas or ratification of an amendment to the Constitution of the United States shall be germane to the subject of the resolution being amended.

(2) All amendments to bills or resolutions shall be submitted in writing on a form provided by the Senate or on a form substantially similar. All amendments to printed bills or resolutions shall specify the page and line number as shown on the printed bill or resolution. If a bill or resolution has not been printed, amendments must refer to the typed bill or resolution. All amendments offered, whether adopted or rejected, together with the action taken thereon, shall be recorded in the Journal. When a bill or resolution has been amended, it shall be engrossed before it is enrolled.

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(3) In the case of amendment by substitute bill or by substitute concurrent resolution, motion shall be made to substitute a written bill or concurrent resolution for the bill or concurrent resolution under consideration.

Rule 45. Report of Committee of the Whole Subject to Amendment – **Time for.** The report of the Committee of the Whole is subject to amendment to correctly reflect what has occurred in the Committee of the Whole by motions made at the time the report is offered for adoption by the Senate. When a bill is reported with the recommendation that the enacting clause be stricken, and the report is agreed to by the Senate, the bill shall be considered killed.

Rule 46. Motion for Committee of the Whole to Arise and Report Progress. A motion that the Committee of the Whole shall rise and report progress on any bill shall always be in order and shall be decided without debate, and the matter being considered shall be the first order of business at the next session of the committee, subject to such postponement as the subsequent Committee of the Whole may determine.

Rule 47. Division of the Senate. Whenever a voice vote has been taken upon any question in either the Senate or the Committee of the Whole, any Senator may call for a division of the Senate or Committee of the Whole.

Rule 48. Bills and Resolutions to Final Action. When the Committee of the Whole shall favorably report a bill or resolution, and the report is adopted by the Senate, the bill or resolution shall be considered as ordered to the order of business Final Action. The vote upon the final passage of the bill shall not be taken on the same day on which the bill is placed on Final Action. Bills and resolutions to be sent to the House shall be properly corrected under the supervision of the Secretary of the Senate. The Secretary of the Senate is authorized to correct misspelled words, punctuation and "doublets" or repeated words when preparing bills, resolutions or other documents for signature by officers of the Senate and House.

Rule 49. Bills and Resolutions – Inclusion of Amendments. When a bill or resolution is amended, the Secretary of the Senate shall attach to the original copy all amendments made in the Senate. Substitute bills and substitute concurrent resolutions shall accompany the bill or concurrent resolution for which each is substituted. Upon passage, Senate bills or resolutions, including the original copy and amendments, shall be transmitted to the House.

Rule 50. Reports of Transmittals in Journal – Committee – Reports. Report of transmittal of bills and resolutions to the House shall be immediately entered upon the Journal. Rule 51. Motion to Strike Enacting or Resolving Clause – Debate Limited. No Senator may speak more than twice on a motion to strike the enacting clause of a bill or the resolving clause of a resolution, and no other motion, except a motion to adjourn, shall be in order until the motion to strike the enacting clause or resolving clause has been decided by roll call vote.

Rule 52. Two-thirds Vote Not Necessary Except on Final Passage of Resolution. When a resolution requiring a vote of 2/3 of the Senate for adoption is under consideration, a vote of 2/3 shall not be needed to decide any question short of its final passage, except as provided by these rules.

Rule 53. Bills Considered in Regular Order. The Subcommittee on Calendar of the Committee on Organization, Calendar and Rules shall designate from day to day and from time to time the bills to be considered that day and on the next legislative day, and the order of consideration fixed by this subcommittee shall not be changed, except by unanimous consent or by a 2/3 vote of all the members of the Senate then elected (or appointed) and qualified, if unanimous consent is refused.

Rule 54. Changing Order on Calendar. Not more than one bill may be named in a motion to change the order of the Calendar, and on each motion no Senator except the Senator making the motion shall speak more than once, nor longer than five minutes.

Rule 55. Resolutions – Classes – Procedures Thereon. Resolutions shall be of the following classes: (1) Senate resolutions; and (2) Senate concurrent resolutions. In acting on them, the Senate shall observe the following procedure:

(1) Senate resolutions shall be in writing, shall be read and shall lie over one day. Senate resolutions other than resolutions for the amendment of rules of the Senate shall not be printed unless ordered by the Senate. There shall be no roll call unless ordered. With the consent of the majority of Senators present and voting, either the requirement to read Senate resolutions or the requirement to lie over one day, or both, may be dispensed with.

(2) Senate concurrent resolutions shall be in writing, shall be read by title, and shall lie over one day. All Senate concurrent resolutions shall be printed, and shall require a roll call on motion to adopt. Propositions to amend the constitution shall be made by concurrent resolution and referred to the proper committee. Other concurrent resolutions may be referred to a proper committee by the President.

All House concurrent resolutions, when in the Senate, shall follow the same procedure as Senate concurrent resolutions.

This rule shall not apply to resolutions relating to the business of the day, nor to resolutions for organization or adjournment.

Rule 56. Confirmation of Appointments by Governor or Other State Official. All nominations or appointments made by the governor or other state official, which are subject to Senate confirmation, may be considered and acted upon by the Senate in either executive or regular session except that no final action thereon may be taken in executive session. When nominations or appointments are made by the governor or other state official for confirmation by the Senate, they shall, unless otherwise ordered by the President, be referred to appropriate committees by the President. Nominations or appointments referred to committees shall be returned to the Senate within 20 legislative days after the same are referred, together with a report thereon, unless additional time be granted by a majority vote of senators present. If the nomination or appointment is not returned to the Senate within the period of time specified for its return and additional time has not been granted, the nomination or appointment shall be considered to be returned to the Senate without recommendation on the next legislative day following the last day of the period of time specified for its return. Any such appointment may be considered and acted upon by the Senate at any time after the nomination or appointment is returned to the Senate. No motion to confirm any such appointment or nomination shall be in order without the unanimous consent of the Senate until the nomination or appointment is returned to the Senate, unless one day's previous notice thereof is given in open session. Appointments shall be confirmed by the Senate only by an affirmative vote of a majority of all members of the Senate then elected (or appointed) and qualified.

Rule 57. Admittance to Floor – Lobbying on Floor – Galleries. No person shall be admitted to the floor of the Senate except elective state officers; members of the Legislature; friends of the members of the Senate, upon invitation signed by the President and the Senator extending the invitation; former members of the Senate, officers and employees of the legislative branch, and members of the news media who are actually employed, and who have a card of admission from the President. The Senate by resolution, may issue such invitations as it desires. Persons so admitted must stay in the perimeter of the Senate chamber except with the express permission of a member of the Senate. No one registered with the Secretary of State as an agent or lobbyist may be on the floor of the Senate during the hours of 9:30 a.m. to 4:30 p.m. nor at the time the Senate is in session. No person, other than a state officer or employee of the legislative branch or legislator, shall discuss any measure with any Senator on the floor of the Senate during the time the Senate is in session. Any person who violates this rule or any person who shall gain admission to the floor of the Senate by false representation shall be forthwith ejected from the Senate chamber and thereafter be denied admission. No employee shall lobby for or against any measure pending in the Senate, and any employee violating this rule shall be forthwith discharged. Former members of the Senate may be introduced when on the floor, but no other introductions shall be made during the session of the Senate, except the President may announce the attendance of school students or other groups visiting the Senate.

Visitors shall be allowed in one or both galleries of the Senate in accordance with directions to the Sergeant at Arms from the President.

Rule 58. Electronic Devices. The use of telephones and the making of telephone calls in the galleries of the Senate are prohibited. Except for security personnel, the use of wireless electronic telecommunications devices emitting an audible sound or tone to announce or initiate communications in a committee room during any time when a committee or subcommittee is in session in the room, in the galleries during any time when the Senate is in session and in the Senate Chamber during any time the Senate is in session is prohibited. The use of video recorders or other video equipment in the galleries is prohibited.

Rule 59. Chairs of Senators. No person except a member of the Senate, shall occupy the chair of any Senator at any time except with the approval of and in the presence of a member of the Senate.

Rule 60. The News Media. Employees of the news media having a card of admission from the President may occupy space designated for them in the Senate chamber. They shall be subject to all the rules of the Senate and shall conduct themselves with proper decorum while in the Senate chamber. They shall not lobby, directly or indirectly, for or against any measure pending before the legislature.

Rule 61. Secretary of Senate – Duties. The Secretary of the Senate shall be appointed by the President. It shall be the duty of the Secretary to call the roll; report correctly the result of all votes; correct the Journal as may be directed by the Senate; read all bills, resolutions, petitions or other papers which the Senate may require; deliver all messages to the House of Representatives; certify all enrolled bills and present same to the President or Vice President of the Senate for signature; endorse upon every paper presented in the Senate the successive stages of action had thereon, and see that proper records are made of the transmission of every paper from one house to the other, or from one office to another; and attend generally to such other matters as the office may require. The Secretary of the Senate shall deliver to the printer all bills and other documents ordered to be printed and take the receipt of the printer therefor. In order to secure a uniform and systematic procedure, the following clerks and their assistants

shall be under the supervision of the Secretary: Assistant Secretary of the Senate, Journal Clerks, Calendar Clerks, Enrolling Clerks, Bill Status Clerk, Reading Clerk and Bill Clerk.

Rule 62. Impeachment. The provisions of this rule shall apply to impeachment, and nothing in the rules of the Senate or in any statute shall impair or limit the powers of the Senate with respect to impeachment. In addition to other powers, the President shall possess the powers and perform the duties in this rule.

(1) The President shall call the Senate into session within 30 days of the receipt by the President of any request by a board of managers of the House of Representatives to lay articles of impeachment before the Senate.

(2) The Senate by a majority vote of the members then elected (or appointed) and qualified may adopt, amend or suspend rules applicable to trial of any impeachment.

(3) The President and any officer or committee acting under authority of this rule may follow any statutory procedure to the extent the same is not in conflict with the provisions of this rule, but nothing in this rule nor in any statute shall be deemed to constitute a waiver of any inherent powers of the Senate.

Rule 63. Sergeant at Arms - Duties. The Sergeant at Arms shall be appointed by the President, and shall serve under the President's direction, control and supervision and at the President's pleasure and shall execute all orders of the President or Senate. The Sergeant at Arms shall have the general supervision of the Senate Chamber, the cloak rooms, gallery and lobby, and shall preserve order within the chamber at all times. The Sergeant at Arms may arrest and take into custody any person gaining admission to the floor of the Senate through false representations or violation of Rule 57 (listing persons authorized to be admitted to the floor of the Senate). All violations shall be immediately reported to the President for action by the Senate. No person except those entitled to admittance on the floor of the Senate pursuant to Rule 57 (listing persons authorized to be admitted to the floor of the Senate) shall lounge or loaf in the Senate chamber when the Senate is not in session, and the Sergeant at Arms shall detail at least one assistant to remain in the chamber at all times when the same is open. The President may appoint and remove Assistant Sergeants at Arms to serve under the supervision of the Sergeant at Arms. All doorkeepers and night watchmen shall be assistant Sergeants at Arms.

Rule 64. Requisitions for Printing. All requisitions upon the Director of Printing for calendars, bills, documents, and printed matter of any nature whatsoever, must be approved by the Director of Legislative Administrative Services.

Rule 65. Employees – Duties. All employees shall report each day to their respective supervisors. The Director of Legislative Administrative Services or some person designated by the director shall keep a record of the attendance of each employee. The Director of Legislative Administrative Services may discharge any employee at any time. The word "employee" as used in this section shall include all persons employed by the Senate, except the secretaries of each of the members of the Senate and except the Secretary of the Senate and Sergeant at Arms, which officers may be removed by the President of the Senate.

Rule 66. Pages. Not more than 20 pages shall serve during any legislative day. Appointments shall be restricted to boys and girls of junior high or high school age.

Rule 67. Secretaries to Members. Each Senator shall be entitled to select a secretary and shall inform the Director of Legislative Administrative Services of the selection. The secretaries shall not be paid for time they are not in attendance unless excused by their respective Senators. From the convening of the Senate until adjournment on any day, except during recesses, no Senator's secretary shall be stationed at the Senator's desk, except that this provision shall not apply to the administrative assistant designated by the President.

Rule 68. Suspension of Rules. (a) A motion to suspend the rules may be made and considered under any order of business. A 2/3 affirmative vote of all Senators then elected (or appointed) and qualified shall be required for its adoption. The motion shall be decided without debate.

(b) A motion to declare an emergency, suspend the rules, and advance a bill to Final Action shall be considered as one motion. It may be made and considered immediately under any order of business, and be debatable on the question of the emergency. A 2/3 affirmative vote of all Senators then elected (or appointed) and qualified shall be required for its adoption.

(c) A bill advanced to Final Action under subsection (b) which is not considered during the legislative day on which it is advanced to Final Action shall be placed on the next legislative day on the Calendar under the order of business General Orders.

Rule 69. Amendments to Rules. No rule of the Senate shall be adopted, amended or revoked without the affirmative vote of a majority of all members of the Senate then elected (or appointed) and qualified, and no motion to adopt, amend or revoke any rule of the Senate shall be in order without the unanimous consent of the Senate, unless one day's previous notice thereof shall be given in open session.

Notwithstanding any provision of the rules of the Senate to the contrary, no notice shall be required for the adoption of a resolution adopting,

amending or revoking any one or more rules of the Senate at the commencement of a legislative session, and adoption of any such resolution shall require only the affirmative vote of not less than a majority of the Senators then elected (or appointed) and qualified, subject to the following conditions: (1) The resolution is sponsored by the President or any three Senators, and (2) either (a) a copy thereof is mailed to each Senator by deposit in the United States mails not later than 11:00 p.m. on the Thursday preceding the Monday on which the legislative session is to commence or (b) in lieu of mailing copies of the resolution are made available to Senators on the first day of the legislative session and Final Action is taken on the second legislative day.

Rule 70. Robert's Rules of Order. In all cases where these rules or the joint rules of the Senate and House of Representatives do not apply, the rules of parliamentary law in Robert's Rules of Order Newly Revised shall govern.

Rule 71. Number Designation of Substitute Bills and Substitute Concurrent Resolutions. (a) Whenever a substitute bill is recommended by a committee report, and whenever a substitute bill is approved by amendment from the floor, the substitute bill shall be printed as provided for bills introduced, and the bill number designation shall be substantially as follows:

(1) In the case of bills substituted for Senate bills, "Substitute for Senate Bill No._____," and the blank shall be filled with the number of the bill for which substitution is made or recommended.

(2) In the case of bills substituted for House bills, "Senate Substitute for House Bill No. _____," and the blank shall be filled with the number of the bill for which substitution is made or recommended.

(b) Whenever a substitute concurrent resolution is recommended by a committee report, and whenever a substitute concurrent resolution is approved by amendment from the floor, the substitute concurrent resolution shall be printed as provided for concurrent resolutions introduced, and the resolution number designation shall be substantially as follows:

(1) In the case of concurrent resolutions substituted for Senate concurrent resolutions, "Substitute for Senate Concurrent Resolution No. _____," and the blank shall be filled with the number of the concurrent resolution for which substitution is made or recommended.

(2) In the case of concurrent resolutions substituted for House concurrent resolutions, "Senate Substitute for House Concurrent Resolution No._____," and the blank shall be filled with the number of the concurrent resolution for which substitution is made or recommended.

Rule 72. General Rule Not to Read Amendments. Amendments to bills or resolutions shall not require readings as for bills introduced or

resolutions introduced, except as otherwise provided in Rule 73 (subject matter of bill or resolution materially changed by senate amendment) or 74 (subject matter of senate bill or resolution materially changed by house amendment).

Rule 73. Subject Change by Senate. Whenever an amendment adopted by the Senate has materially changed the subject of a bill or resolution, the title of the bill or resolution so amended shall be read in the manner prescribed for the introduction of bills or resolutions, and take its place upon the Calendar under the order of business Final Action.

Rule 74. Subject Change by House. Whenever the House adopts amendments to a Senate bill or senate concurrent resolution which materially changes its subject, upon return of such bill or resolution to the Senate, the title of such bill or resolution shall be read in the manner prescribed for the introduction of bills or resolutions and such bill or resolution shall be referred as provided in Rule 32 (reference of bills and resolutions).

Rule 75. Determination of When Subject of Bill or Resolution Materially Changed. The President may determine when a bill or resolution is subject to Rule 73 (subject matter of bill or resolution materially changed by senate amendment) or 74 (subject matter of senate bill or senate concurrent resolution materially changed by house amendment).

Rule 76. Executive Reorganization Orders. When an executive reorganization order is received from the Governor, it shall be referred to an appropriate committee by the President. The committee to which an executive reorganization order is referred shall report its recommendations thereon, by recommending adoption of a Senate resolution, not later than the 60th calendar day of any regular session and not later than 30 calendar days after it has received such referral whichever occurs first. If a committee fails to report upon an executive reorganization order within the time specified in this rule, such committee shall be deemed to have returned the same to the Senate without recommendation. When a report or return of an executive reorganization is made, it and all resolutions for approval or disapproval thereof shall be made the special order of business in accordance with Rule 6 (special order of business) at a time not later than the last day the executive reorganization order may be disapproved under section 6 of article 1 of the Constitution of Kansas. The Senate shall act to approve or reject every reorganization order unless at the time set for such action the House of Representatives shall have already rejected such executive reorganization order.

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Rule 77. Censure or Expulsion. Whenever three or more Senators desire to lodge a complaint against any other Senator requesting that the Senator be censured or expelled for misconduct, the complaining Senators shall sign and file a written statement of such complaint with the Secretary of the Senate. In such event, the President shall appoint a select committee for consideration thereof composed of five Senators, no more than three of whom shall be members of the same political party, and none of whom shall have signed the complaint to be considered. The select committee may dismiss the complaint after inquiry or may set the matter for hearing. Reasonable notice and an opportunity to appear shall be afforded the Senator against whom a complaint has been filed. Select committees meeting under authority of this section shall be authorized to meet and exercise compulsory process without further authorization, subject only to the limitations and conditions prescribed in article 10 of chapter 46 of Kansas Statutes Annotated. Upon completing its hearing and deliberations thereon the select committee may dismiss the complaint or may submit a recommendation to the full Senate for censure or expulsion, and upon receiving such report the Senate may without further hearing or investigation censure or expel the member against whom the complaint was filed. Censure or expulsion of a Senator under this rule shall require a 2/3 majority vote of those members elected (or appointed) and qualified.

Rule 78. Taking from the Table. The affirmative vote of a 2/3 majority of all Senators then elected (or appointed) and qualified shall be required for the adoption of a motion to take any question or proposition from the table after the adoption of a motion to table or lay such question or proposition on the table. The provisions of this rule shall apply to motions both in standing committees and the Senate.

Rule 79. Placing Material on Members' Desks. No items or material shall be placed upon the desk of any member of the Senate unless any such item or material bears the signature or name of the Senator responsible for its distribution. This Rule 79 shall not apply to items or material provided by legislative staff, the Governor or state agencies.

Rule 80. Decorum. During the time the Senate is in session professional dress is required on the floor of the Senate.

Joint Rules

of the

Senate and

House of Representatives



State of Kansas 2009-2010

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JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES 2009-2010

Joint rule 1. Joint rules; application and date of expiration; adoption, amendment, suspension and revocation. (a) *Joint rules; expiration, adoption, amendment, suspension and revocation; vote required.* Joint rules are adopted under the authority of section 8 of article 2 of the Constitution of the State of Kansas and shall govern matters made subject thereto except when otherwise specifically provided by joint rule. Joint rules shall expire at the conclusion of the terms of representatives. Joint rules shall be adopted, amended, suspended and revoked by concurrent resolution of the two houses of the legislature. Concurrent resolutions adopting joint rules shall receive the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified in each house.

(b) Amendment, suspension or revocation of joint rules; previous notice; vote required. After one day's previous notice, joint rules may be amended, suspended or revoked by the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified in each house. Upon the filing of such notice in either house, a message shall be sent to the other house advising of the filing of such notice and the reading of the message shall constitute notice to the members of such house. If such previous notice is not given, the affirmative vote of 2/3 of the members then elected (or appointed) and qualified in each house shall be required for the amendment, suspension or revocation of a joint rule.

(c) Amendment, suspension or revocation of joint rules at commencement of legislative session; vote required; conditions. Notwithstanding any provision of this rule to the contrary, no notice shall be required for the adoption of a concurrent resolution amending, suspending or revoking any one or more joint rules at the commencement of a legislative session, and adoption of any such concurrent resolution shall require only the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified in each house, subject to the following conditions: (1) The concurrent resolution is sponsored by the speaker or the president, and (2) either (a) a copy thereof is mailed to each member of the legislature by deposit in the United States mails not later than 11:00 p.m. on the Thursday preceding the Monday on which the legislative session is to commence or (b) in lieu of mailing, copies of the concurrent resolution are made available to members on the first day of the legislative session and final action is taken on a subsequent legislative day.

Joint rule 2. Joint sessions. (a) Joint session called by concurrent resolution; vote required; time, place and subject matter. A joint session of the senate and house of representatives may be called by concurrent resolution adopted by the affirmative vote of not less than a majority of the members elected (or appointed) and qualified in each house of the legislature or as may otherwise be prescribed by law. Any such resolution shall fix the time and place of the joint session, and the subject matter to be considered at the joint session. Joint sessions shall consider only such matters as are prescribed by law or by the concurrent resolution calling such joint session.

(b) *Presiding officer at joint sessions; record of joint session; rules applicable.* The speaker of the house of representatives shall preside at all joint sessions of the senate and house of representatives, and the clerk of the house of representatives shall keep a record of the proceedings thereof and shall enter the record of each such session in the journal of the house of representatives. The rules of the house of representatives and the joint rules of the two houses, insofar as the same may be applicable shall be the rules for joint sessions of the two houses.

(c) *Votes in joint session; taking; requirements.* All votes in a joint session shall be taken by yeas and nays, and in taking the same it shall be the duty of the secretary of the senate first to call the names of the members of the senate, and after which the clerk of the house of representatives shall in like manner call the names of the members of the house. Each member of the senate and the house of representatives present shall be required to vote on all matters considered in joint session, unless excused by a vote of a majority of the members of both houses present.

Joint rule 3. Conference committee procedure. (a) Action by house of origin of bill or concurrent resolution amended by other house. When a bill or concurrent resolution is returned to the house of origin with amendments by the other house, the house of origin may: (1) Concur in such amendments; (2) refuse to concur in such amendments; or (3) refuse to concur in such amendments and request a conference on the bill or concurrent resolution.

(b) Concurrence by house of origin; concurrence prior to taking action on conference committee report by other house; final action; effect of failure of motion to concur. The house of origin of any bill or concurrent resolution may concur in any amendments made by the other house, except that if the bill or concurrent resolution has been referred to a conference committee such action may only be taken prior to the taking of final action upon the conference committee report upon such bill or concurrent resolution by the other house. A vote in the house of origin of any bill or concurrent resolution on a motion to concur in amendments to such bill or concurrent resolution by the other house shall be considered action on the final passage of the bill or concurrent resolution and the affirmative and negative votes thereon shall be entered in the journal. If the motion to concur is upon amendments to a bill or concurrent resolution for which a conference committee has been appointed and action has not been taken upon the report of such committee by the other house and such motion fails, the bill or concurrent resolution shall not be deemed to have been killed thereby, but if the motion to concur is upon amendments to a bill or concurrent resolution for which a conference committee has not been appointed and such motion fails, the bill or concurrent resolution shall be deemed to be killed.

(c) Motion to nonconcur; when considered final action; effect of adoption of motion. A vote in the house of origin of any bill or concurrent resolution on a motion to nonconcur or to refuse to concur in amendments to such bill or concurrent resolution by the other house which is not coupled with a request for the appointment of a conference committee shall be considered action on final passage of the bill or concurrent resolution and the affirmative and negative votes thereon shall be entered in the journal, and the bill or concurrent resolution shall be deemed killed on the adoption thereof.

(d) *House of origin refusal to concur or nonconcur; request for conference; procedure.* When a bill or concurrent resolution is returned by either house to the house of origin with amendments, and the house of origin refuses to concur or to nonconcur therein, a conference may be requested by a majority vote of the members present and voting. Such request shall be transmitted to the other house by message which shall include the names of the conferees on the part of the requesting house. Upon receipt of any such message, the receiving house may, in like manner, approve such conference, and shall thereupon notify the requesting house by message stating the names of its conferees.

(e) *Membership*; *appointment*; *chairperson*; *house of origin of substitute or materially changed bill or concurrent resolution*; *meetings of conference committee*. Each conference committee shall consist of three members of the senate and three members of the house of representatives, unless otherwise fixed by agreement of the president of the senate and speaker of the house. Senate members shall be appointed by the president of the senate and house members shall be appointed by the speaker of the house of representatives. The president or the speaker may replace any conferee previously appointed by such person. Not less than one member appointed from each house shall be a member of the minority political party of such house except when such representation for such house is waived by the minority leader of such

house. In all cases, the first-named member of the house of origin of the bill or concurrent resolution assigned to the committee shall be chairperson of the conference committee. The house of origin of a substitute bill or substitute concurrent resolution shall be the house in which the bill or concurrent resolution in its original form was introduced. The chairperson of a conference committee on a bill or concurrent resolution the subject matter of which has been ruled to be materially changed shall be a member of the house which amended the bill or concurrent resolution to materially change the subject matter. Each conference committee shall meet on the call of its chairperson. All meetings of conference committees shall be open to the public and no meeting shall be adjourned to another time or place in order to subvert such policy.

(f) Conference committee reports; subject matters which may be included; report not subject to amendment; house which acts first on report; copies of reports; reports considered under any order of business. Only subject matters which are or have been included in the bill or concurrent resolution in conference or in bills or concurrent resolutions which have been passed or adopted in either one or both houses during the current biennium of the legislature may be included in the report of the conference committee on any bill or concurrent resolution except in any appropriations bill there may be included a proviso relating to any such item of appropriation. A conference committee report shall not be subject to amendment. The original signed conference committee report shall be submitted to and acted upon first by the house other than the house of origin of the bill or concurrent resolution. Except when a conference committee report is an agree to disagree coupled with a request that a new conference committee be appointed or is a recommendation to accede to or recede from all amendments of the second house electronic and paper copies of the report shall be made available to all members of the house considering the report not later than 30 minutes before the time of its consideration, except that if the report is more than six pages in length no paper copies will be required to be distributed to individual members provided that at least 10 paper copies of the report are made available to members at the clerk's or secretary's desk at the front of the respective house. By written notice, the majority leader may direct the clerk or secretary to increase from six pages to some greater number of pages the size of conference committee reports that need not be distributed by paper copies to individual members pursuant to this rule. The affirmative vote of 2/3 of the members present in the house at the time of consideration of the report shall be sufficient to dispense with distribution of copies of the conference committee report to all members of that house. Reports of conference committees may be received and considered under any order of business.

(g) Signatures required on conference committee reports. All initial conference committee reports other than an agreement to disagree coupled with a request that a new conference committee be appointed shall be signed by all of the conferees. All initial conference committee reports which are an agreement to disagree coupled with a request that a new conference committee be appointed shall be signed by a majority of the conferees appointed in each house. If a conference committee report which is an agreement to disagree coupled with a request that a new conference committee be appointed is not adopted, a subsequent conference committee report shall be signed by all conferees unless a subsequent conference committee report which is an agreement to disagree coupled with a request that a new conference committee be appointed is adopted, in which case a conference committee report subsequent to the adoption of such report shall be signed by a majority of the conferees appointed in each house. All other conference committee reports shall be signed by a majority of the conferees appointed in each house.

(h) Vote to adopt conference committee report final action; effect of failure of motion to adopt conference committee report. The vote to adopt the report of a conference committee, other than a report of failure to agree coupled with a recommendation for appointment of a new conference committee, shall be considered final action on the bill or concurrent resolution and the affirmative and negative votes thereon shall be entered in the journal. If the motion fails, the bill or concurrent resolution shall be deemed to be killed. If the motion on a conference committee report which is an agreement to disagree coupled with a request that a new conference committee be appointed fails, the bill or concurrent resolution shall not be deemed to have been killed thereby and remains in conference.

(i) Report of conference committee unable to agree; effect of failure to request new conference committee; effect of failure of motion to adopt report requesting new conference committee. If a conference committee upon any bill or concurrent resolution is unable to agree, it shall report that fact to both houses. Such report may request that a new conference committee be appointed thereon. If the committee so reports but fails to request the appointment of a new conference committee thereon the bill or concurrent resolution shall be deemed to have been killed upon the adoption by either house of such report. If the motion to adopt a report requesting the appointment of a new conference committee fails, the bill or concurrent resolution shall be deemed to be killed.

(j) Bills or concurrent resolutions under consideration by conference committees and reports thereof; carryover from odd-numbered to even-numbered year. Bills or concurrent resolutions under consideration by a conference committee, or a report of which has been filed but no action taken thereon in either house, at the time of adjournment of a regular session of the legislature held in an odd-numbered year shall remain alive during the interim and may be considered by the committee and legislature as the case may be at the regular session held in the following even-numbered year.

Joint rule 4. Deadlines for introduction and consideration of bills. The senate and house of representatives shall observe the following schedule of deadlines in making requests for drafting and in the introduction and consideration of bills.

(a) *Bill request deadline for individual members.* Except for bills introduced pursuant to (i) of this rule, no request to draft bills, except those made by committees, through their respective chairpersons, shall be made to, or accepted by, the office of the revisor of statutes after the hour of 5:00 p.m. on January 26, 2009, during the 2009 regular session and on January 25, 2010, during the 2010 regular session.

(b) *Bill introduction deadline for individual members.* Except as provided in (i) of this rule, no bill sponsored by a member or members shall be introduced in either house of the legislature after the hour of adjournment on February 4, 2009, during the 2009 regular session and on February 10, 2010, during the 2010 regular session. Such deadline for the introduction of bills by individual members may be changed to an earlier date in either house at any time by resolution duly adopted by the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified in such house.

(c) *Bill request deadline for certain committees*. Except for bills to be introduced pursuant to (i) of this rule, no committee except the committee on ways and means of the senate, select committees of either house when so authorized, the committee on federal and state affairs of either house or the house committees on calendar and printing, appropriations and taxation shall make a request to the office of the revisor of statutes for any bill to be drafted for sponsorship by such committee after the hour of 5:00 p.m. on January 30, 2009, during the 2009 regular session and on February 4, 2010, during the 2010 regular session.

(d) *Bill introduction deadline for certain committees*. Except as provided in (i) of this rule, no bill sponsored by any committee of either house of the legislature, except the committee on ways and means of the senate, select committees of either house when so authorized, the committee on federal and state affairs of either house or the house committees on calendar and printing, appropriations and taxation shall be introduced in either house after the hour of adjournment on February 6, 2009, during the 2009 regular session and on February 12, 2010, during the 2010 regular session. (e) *House of origin bill consideration deadline*. No bill, except bills sponsored by, referred to or acted upon by the committee on ways and means of the senate, select committees of either house when so authorized, the committee on federal and state affairs of either house or the house committees on calendar and printing, appropriations and taxation shall be considered in the house in which such bill originated after the hour of adjournment on February 21, 2009, during the 2009 regular session and on February 27, 2010, during the 2010 regular session.

(f) Second house bill consideration deadline. No bill, except bills sponsored by, referred to or acted upon by the committee on ways and means of the senate, select committees of either house when so authorized, the committee on federal and state affairs of either house or the house committees on calendar and printing, appropriations and taxation shall be considered by the house, not the house of origin of such bill, after the hour of adjournment on March 25, 2009, during the 2009 regular session and March 31, 2010, during the 2010 regular session.

(g) *Exceptions to limitation of (d), (e) and (f); procedure.* Specific exceptions to the limitations prescribed in subsections (d), (e) and (f) may be made in either house by resolution adopted by the affirmative vote of not less than a majority of the members of such house then elected (or appointed) and qualified.

(h) *Deadline which falls on day neither house in session; effect.* In the event that any deadline prescribed in this rule falls on a day that neither house of the legislature is in session, such deadline shall be observed on the next following day that either house is in session.

(i) *Bills introduced in odd-numbered years after deadlines; effect.* Bills may be introduced by members and committees in regular sessions occurring in an odd-numbered year after the times prescribed in (b) and (d) of this rule, but there shall be no final action thereon by either house during the session when introduced. Such bills shall be held over for consideration at the next succeeding regular session held in an even-numbered year.

(j) Modification of schedule of deadlines for introduction and consideration of bills; procedure. In any regular session a concurrent resolution may be adopted by the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified of each house setting forth a different schedule of deadlines for introduction and consideration of bills for that session and the provisions of such concurrent resolution shall apply to such session notwithstanding provisions of this rule to the contrary.

(k) *Bill consideration deadline; exceptions.* No bills shall be considered by the Legislature after April 4, 2009, during the 2009 regular session and after April 10, 2010, during the 2010 regular session except bills vetoed by

IXVIII JOINT RULES OF THE HOUSE AND SENATE

the Governor, the omnibus appropriation act and the omnibus reconciliation spending limit bill provided for under K.S.A. 75-6702 and amendments thereto. This subsection (k) may be suspended for the consideration of a specific bill or bills not otherwise exempt under this subsection by the affirmative vote of a majority of the members then elected (or appointed) and qualified in the house in which the bill is to be considered.

Joint rule 5. Closure of meetings to consider matters relating to security. Any standing committee of the House of Representatives, any standing committee of the Senate, the Legislative Coordinating Council, any joint committee of both houses of the legislature, any special or select committee of the House of Representatives or the Senate, the House of Representatives in session, the Senate in session or a joint session of the House of Representatives and the Senate may meet in closed, executive session for the purpose of receiving information and considering matters relating to the security of state officers or employees, or both, or the security of buildings and property under the ownership or control of the State of Kansas.

SENATE JOURNAL

PROCEEDINGS

OF

The Senate

OF THE

KANSAS LEGISLATURE

TOPEKA, KANSAS

2009 REGULAR SESSION January 12 through June 4, 2009

PAT SAVILLE, Secretary of the Senate

EXPLANATION OF ABBREVIATIONS

Substantial economy of space was achieved in the text of the journals by shortening the numerous references to bill and resolution numbers. Placing these in blackface type facilitates locating the bills readily on each page. The abbreviations used are as follows:

SB 1	.Senate Bill No. 1
SCR 1601	Senate Concurrent Resolution No. 1601
SP 1	Senate Petition No. 1
SR 1801	Senate Resolution No. 1801
НВ 2001	.House Bill No. 2001
HCR 5001	House Concurrent Resolution No. 5001

EXPLANATION OF PAGE NUMBERING

The Senate and House Journals are printed in separate volumes. Paging in both journals is consecutive and begins with page 1, continuing through the 2-year biennium.

Under the section "History of Bills" HJ page numbers refer to the separate House Journal for 2009.

Journal of the Senate

PREORGANIZATIONAL MEETING OF SENATE MEMBERS-ELECT

SENATE CHAMBER, TOPEKA, KANSAS Monday, December 1, 2008—10:00 a.m.

In accordance with the provisions of KSA 46-142, Secretary of State Ron Thornburgh, called the preorganizational meeting of the 2009 session of the Kansas Legislature to order. The roll was called by Secretary of State Ron Thornburgh from the list of members-elect as certified by the State Board of Canvassers:

STATE OF KANSAS OFFICE OF

SECRETARY OF STATE

I, RON THORNBURGH, Secretary of State, do hereby certify that the following persons were elected members of the Senate of the State of Kansas for a four year term beginning on the second Monday of January, A. D. 2009.

District

- 1 Dennis D. Pyle
- 2 Marci Francisco
- 3 Tom Holland
- 4 David Haley
- 5 Kelly Kultala
- 6 Chris Steineger
- 7 David Wysong
- 8 Thomas C. (Tim) Owens
- 9 Julia Lynn
- 10 Mary Pilcher-Cook
- 11 John Vratil
- 12 Pat Apple
- 13 Bob Marshall
- 14 Dwayne Umbarger
- 15 Derek Schmidt
- 16 Ty Masterson
- 17 Jim Barnett
- 18 Laura Kelly
- 19 Anthony Hensley
- 20 Vicki Schmidt

District

- 21 Mark Taddiken
- 22 Roger P. Reitz
- 23 Karin Brownlee
- 24 Pete Brungardt
- 25 Jean Kurtis Schodorf
- 26 Dick Kelsey
- 27 Leslie D. "Les" Donovan Sr.
- 28 Mike Petersen
- 29 Oletha Faust-Goudeau
- 30 Susan Wagle
- 31 Carolyn McGinn
- 32 Steve E. Abrams
- 33 Ruth Teichman
- 34 Terry Bruce
- 35 Jay Émler
- 36 Janis K. Lee
- 37 Jeff Colver
- 38 Tim Huelskamp
- 39 Stephen R. Morris
- 40 Ralph Ostmeyer

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused to be affixed my official seal this 1st day of December, A.D. 2008.

RON THORNBURGH Secretary of State JANET A. CHUBB Assistant Secretary of State

Forty members-elect were present.

Secretary of State Ron Thornburgh requested members-elect complete the Secretary of State's information sheet on their desk and return to Pat Saville, the Secretary of the Senate, as soon as possible.

Secretary of State Ron Thornburgh appointed Senator Jay Emler, District 35, to serve as temporary chairperson of the meeting.

Senator Emler announced that in accordance with KSA 42-142(b) upon adjournment, the majority and minority parties will caucus and nominate their candidates, respectively, for president and vice-president of the Senate for the next ensuing four years and select respectively, their majority leader, minority leader and other caucus or party officers.

The location of the Majority Party Caucus will be 545-N.

The location of the Minority Party Caucus will be 446-N.

Senator Emler reminded senators of the orientation for new members at 2:00 p.m. in Room 143-N.

There being no further matters to be brought before the meeting for consideration that are necessary or proper to aid the Legislature in performing its functions when they convene on Monday, January 12, 2009, the meeting was adjourned.

Journal of the Senate

FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS Monday, January 12, 2009—2:00 p.m.

In accordance with the provisions of the constitution of the State of Kansas and KSA 46-142(d), the 2009 Session of the Kansas Legislature was called to order by Secretary of State Ron Thornburgh.

Secretary Thornburgh introduced the Rev. Fred S. Hollomon, Topeka, Kansas, who will again serve as the Senate Chaplain and delivered the following invocation:

Heavenly Father,

Last year we were dealing With a shortfall in the millions, Now we hear it could amount To, believe it or not, a billion!

So it seems to me, O God, Our problem has really grown To where it'd be unwise To tackle it alone.

I think we need your help, O God, More than we did before, To even have a chance Our balance to restore.

There may be those who wonder, Lord, Whether it matters much to You What happens in these chambers And what it is we do.

Should there really be a doubt, Then once more we should recall The advice Ben Franklin gave In Constitution Hall.

When the convention was in trouble It was Franklin who advised, "If God knows when sparrows fall, Won't He help an empire rise?"

Please don't let the Chaplain, Lord, Be the only one who prays. Let there be a lot of praying During these ninety days.

Even research supports prayer, So for this session's sake Don't let us act surprised At the difference that You make! I pray in the name of Jesus, AMEN

The Pledge of Allegiance was led by Secretary Thornburgh.

Secretary Thornburgh appointed Pat Saville to serve as temporary Secretary of the Senate until such time as a permanent secretary is appointed.

Secretary Thornburgh requested the reader to call the roll of the Senate from the certified list of members-elect as submitted by the Secretary of State and recorded in the preorganizational meeting of December 1, 2008.

Forty members-elect were present.

Secretary Thornburgh introduced the Honorable Marla J. Luckert, Justice of the Kansas Supreme Court, who administered the Oath of Office to the newly elected senators.

OATH OF OFFICE

STATE OF KANSAS, COUNTY OF SHAWNEE, ss:

We, and each of us, do solemnly swear or affirm that we will support the constitution of the United States and the constitution of the state of Kansas, and faithfully discharge the duties of the office of the Senator of the state of Kansas, So help us God.

District

- 1 Dennis D. Pvle
- 2 Marci Francisco
- 3 Tom Holland
- 4 David Haley
- 5 Kelly Kultala
- 6 Chris Steineger
- 7 David Wysong
- 8 Thomas C. (Tim) Owens
- 9 Julia Lynn
- 10 Mary Pilcher-Cook
- 11 John Vratil
- 12 Pat Apple
- 13 Bob Marshall
- 14 Dwayne Umbarger
- 15 Derek Schmidt
- 16 Ty Masterson
- 17 Jim Barnett
- 18 Laura Kellv
- 19 Anthony Hensley
- 20 Vicki Schmidt

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- 21 Mark Taddiken
- 22 Roger P. Reitz
- 23 Karin Brownlee
- 24 Pete Brungardt
- 25 Jean Kurtis Schodorf
- 26 Dick Kelsev
- 27 Leslie D. "Les" Donovan Sr.
- 28 Mike Petersen
- 29 Oletha Faust-Goudeau
- 30 Susan Wagle
- 31 Carolyn McGinn
- 32 Steve E. Abrams
- 33 Ruth Teichman
- 34 Terry Bruce
- 35 Jay Emler
- 36 Janis K. Lee
- 37 Jeff Colyer
- 38 Tim Huelskamp
- 39 Stephen R. Morris
- 40 Ralph Ostmeyer

Subscribed and sworn to, or affirmed, before me this 12th day of January, 2009.

Marla J. Luckert

Justice of the Supreme Court

CAUCUS REPORTS

The majority and minority caucus reports were submitted and read:

Majority Party Caucus

December 1, 2008

The members-elect of the majority party of the Senate have met and caucused as required by K.S.A. 46-142, and:

- (a) Nominate as their candidates for the following offices for the next ensuing four years:
 - (1) President of the Senate, Stephen Morris
 - (2) Vice President of the Senate, John Vratil
- (b) Select the following caucus or party officers:
 - (1) Majority Leader, Derek Schmidt
 - (2) Assistant Majority Leader, Vicki Schmidt
 - (3) Assistant Majority Leader/Whip, Jean Schodorf

JANUARY 12, 2009

(c) Select the following named members of the Committee on Organization, Calendar and Rules:

Position No. 1, Dwayne Umbarger

Position No. 2, Pete Brungardt

Position No. 3, Carolyn McGinn

Position No. 4, Ruth Teichman

Position No. 5, Pat Apple

Position No. 6, Jim Barnett

Stephen Morris Chairperson Majority Party Caucus

Minority Party Caucus December 1, 2008

The members-elect of the minority party of the Senate have met and caucused as required by K.S.A. 46-142, and have selected the following caucus or party officers:

- (a) Democratic Leader, Anthony Hensley
- (b) Assistant Democratic Leader, Janis Lee
- (c) Democratic Whip, Laura Kelly
- (d) Caucus and Agenda Chair, Tom Holland

Tom Holland Chairperson Minority Party Caucus

Secretary Thornburgh proceeded with the business of the election of officers of the Senate.

Senator D. Schmidt then placed in nomination the name of Senator Stephen Morris for the office of President of the Senate. Senator Hensley seconded the nomination. After inquiry by the chairperson, there being no other nominations, the nominations ceased and Senator Morris was elected by acclamation.

In compliance with the Majority Caucus Report, Senator D. Schmidt placed in nomination the name of Senator John Vratil for the office of Vice President of the Senate. Senator Hensley seconded the nomination. After inquiry by the chairperson, there being no other nominations, the nominations ceased and Senator Vratil was elected by acclamation.

Secretary Thornburgh requested Senators D. Schmidt and Hensley to escort the newly elected Vice President to the front of the Senate Chamber, where Justice Luckert administered the Oath of Office.

OATH OF OFFICE

I do solemnly swear, or affirm, that I will support the constitution of the United States and the constitution of the State of Kansas, and faithfully discharge the duties of my respective office in the Kansas State Senate.

JOHN VRATIL, Vice President

Subscribed and sworn to, or affirmed, before me the 12th day of January, 2009.

MARLA J. LUCKERT Justice of the Supreme Court

Secretary Thornburgh requested Senators D. Schmidt and Hensley to escort the newly elected President to the front of the Senate Chamber, where Justice Luckert administered the Oath of Office.

OATH OF OFFICE

I do solemnly swear, or affirm, that I will support the constitution of the United States and the constitution of the State of Kansas, and faithfully discharge the duties of my respective office in the Kansas State Senate.

STEPHEN MORRIS, President

Subscribed and sworn to, or affirmed, before me the 12th day of January, 2009.

MARLA J. LUCKERT

Justice of the Supreme Court

Secretary Thornburgh passed the gavel to President Morris.

REMARKS BY PRESIDENT MORRIS

Congratulations welcome to the Kansas Senate. For some, today is a landmark. The result of a dream, plus the hard work of a campaign, and the support of family and thousands of friends you never knew you had. For others, this ceremony is not new, but serves as a reminder of the responsibilities you bear because of the office you hold.

We are privileged to be here, to be able to serve the citizens of Kansas. I also feel very honored to have the opportunity to serve another term as your Senate President, and I look forward to working with all of you.

There is a phrase that has become very popular with self-help pundits: *The universe rewards action*. There are books, websites, blogs, and entire life strategies built around this concept.

I think the better version of this saying is attributed to Dante Alighieri, the 14th Century Italian poet, writer, literary theorist, moral philosopher, and political thinker. He said, "*The secret of getting things done is to <u>act</u>."*

What better guidance could we have at this critical point in our State's history? We face tremendous fiscal difficulties that have been further complicated by a faltering economy. We need to establish a statewide, comprehensive energy plan, we need to craft a new long term comprehensive transportation plan, and we must find a way to continue to provide the most basic government services to those most in need. Our choices are certain to be painful.

We have to act. Failure to take action is to fail the voters who sent us here. By failing to act, we would also be failing ourselves and each other. So let's work together, within our caucuses and across party lines. Let's meet these challenges head-on. By setting wise policies now, we can save future lawmakers from facing this same quandary in future legislative sessions.

But today is a day of celebration and recognition. While we enjoy the congratulations that come with earning a seat in the Senate, let's take a moment to recognize our closest advisors, our most enthusiastic cheerleaders and sometimes our most honest critics: our family members who are here to share this day with us.

To all our family members gathered in this chamber, in the galleries, and those who were unable to attend, we extend our thanks and gratitude for your sacrifice and support. Thank you.

REMARKS BY MINORITY LEADER HENSLEY

Mr. President:

On behalf of the Democratic caucus, I want to congratulate you, the Vice President, the Majority Leader and the other Republican leadership on your election to your respective offices.

I've enjoyed working with you in the past four years, and our caucus looks forward to working with you during this new term of office.

We pledge to work with you but also acknowledge that there will be those times in the process when we will, in the legislative vernacular, "agree to disagree."

I want to thank my fellow Democrats for electing me to once again serve as their leader. This is a high honor you have given me and I will do my best to represent you.

I also want to welcome everyone to my hometown, especially the new members of the Kansas Senate.

And, I want to welcome our family members to the Senate Chamber and thank them for their support during the "rough and tumble" of the recent election campaigns.

JANUARY 12, 2009

Speaking of the "rough and tumble" of campaigns, I told the President and Majority Leader this morning one of my favorite political stories from the famous Lincoln-Douglas debates when the two were running for the U.S. Senate from Illinois in 1858.

Stephen Douglas called Abraham Lincoln "two-faced." Whereupon Lincoln replied, "I leave it to my audience. If I were two-faced, why would I wear this one?"

I also thank our families in advance for their patience and understanding while we are away from them during our time spent here in this legislative session and the sessions ahead.

I want to take this opportunity to mention several "firsts" among the members of the Democratic caucus.

Today, marks the first time that the Senator from Wyandotte, Senator Haley, was on time for his own swearing in!

The new Senator from Douglas, Senator Holland and his successor in the House are the first Senator and House member duo from the community of Baldwin City since Abraham Lincoln was President.

The new Senator from Wyandotte, Senator Kultala, is the first female Senator to be elected and sworn in from Wyandotte County.

And, even more significant, the new Senator from Sedgwick, Senator Faust-Goudeau, is the first African-American woman in Kansas history to be elected and sworn in to the Kansas Senate.

Another first in our caucus is that our Executive Secretary, Carolyn Campbell, will be sworn in tomorrow as the first African-American in Kansas history to the Kansas State Board of Education.

It is an understatement to say that the 2009 session will confront all of us with many great and difficult challenges.

I told a group of Democrats yesterday that the challenges facing us this session are the most serious I've seen in my tenure, and this is my 33rd session.

The downturn in our national and state economy and the shortfall in our state's budget will set the stage for some really tough and unpopular choices.

And, tonight, we will hear from Governor Sebelius as to what she believes many of those choices will be.

But, political leaders and legislative bodies have been confronted with difficult challenges throughout the years.

Much to what I know is of interest to the Majority Leader, I have on occasion referred to Presidential history on this floor.

This year, 2009, marks the 200th anniversary of the birth of a man who was, in my opinion, the greatest of all American Presidents.

Abraham Lincoln was born in Hardin County, Kentucky on February 12, 1809.

And, if we believe the challenges we will face are tough, they pale in comparison with a divided nation at war and in peril of its very survival while Lincoln was President.

But, he reminded his fellow countrymen, with words he thought few people would ever remember, that even in the darkest days of our nation's history, they should continue to highly resolve themselves to the cause that "government of the people, by the people, for the people, shall not perish from the earth."

The challenges we face today do not even come close to putting government in peril. But, the decisions we make in response to those challenges will have a profound impact on the citizens we represent.

Let us make those decisions in a spirit of inclusion and bi-partisanship.

Let us work together to maintain the best possible safety net we can for the people of Kansas, particularly the most vulnerable among us.

Let us resolve ourselves to what another of my favorite Presidents once said. Franklin Roosevelt said, "The test of our progress is not whether we add more to the abundance of those who have much, it is whether we provide enough for those who have too little."

Again, my congratulations to everyone. Now it's on to the work of the people.

Senator Hensley

INTRODUCTION OF GUESTS

President Morris introduced Dr. Terry Lee Mills, President of the Kansas Academy of Family Physicians. Dr. Mills is a graduate of the University of Oklahoma College of Medicine and completed his family practice residency at McLennan County Medical Education and Research Foundation in Waco, Texas. Dr. Mills practices at Wichita Clinic, Bethel in Newton and is Chief of the Department of Family Practice. He is a Major in the Medical Corp for the United States Army Reserves. The Academy sponsors the doctor of the day program and provides daily assistance for health concerns in the Capitol during the session.

Also recognized were Jody Kirkwood, Sergeant-at-Arms; Roger Zlatnik, Assistant Sergeant-at-Arms; George Sommers, Assistant Sergeant-at-Arms.

Second Lieutenant Don Cackler will again be representing the Kansas Highway Patrol in the Senate.

The new reader is Paul Cope, Pittsburg, Kansas, a third year law student at Washburn University.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

On emergency motion of Senator D. Schmidt, **SR 1801**, by Senators Morris, D. Schmidt and Hensley as follows, was introduced and adopted by voice vote:

SENATE RESOLUTION No. 1801-

A RESOLUTION relating to the organization of the Senate.

Be it resolved by the Senate of the State of Kansas: That the Secretary of the Senate notify the House of Representatives that the Senate is organized with the following officers: Stephen Morris, president,

John Vratil, vice president,

Derek Schmidt, majority leader,

Anthony Hensley, minority leader,

Pat Saville, secretary,

Jody Kirkwood, sergeant at arms,

and awaits the pleasure of the House of Representatives.

On emergency motion of Senator D. Schmidt, **SR 1802** by Senators Morris, D. Schmidt and Hensley was introduced and adopted by voice vote.

SENATE RESOLUTION No. 1802-

A RESOLUTION relating to assignment of seats of the Senate.

Be it resolved by the Senate of the State of Kansas: That the permanent seats of the Senate are hereby assigned as follows: Abrams 6, Apple 29, Barnett 23, Brownlee 36, Bruce 12, Brungardt 32, Colyer 15, Donovan 31, Emler 9, Faust-Goudeau 21, Francisco 20, Haley 22, Hensley 39, Holland 37, Huelskamp 19, Kelly 38, Kelsey 5, Kultala 7, Lee 40, Lynn 28, Marshall 3, Masterson 35, McGinn 27, Morris 1, Ostmeyer 13, Owens 34, Petersen 14, Pilcher-Cook 18, Pyle 17, Reitz 33, D. Schmidt 2, V. Schmidt 26, Schodorf 24, Steineger 8, Taddiken 4, Teichman 11, Umbarger 25, Vratil 10, Wagle 16 and Wysong 30.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 1, An act designating the William Inge Theatre Festival as the official theatre festival of the state of Kansas, by Senator D. Schmidt.

SB 2, An act concerning state governmental ethics; relating to state officers and employees; relating to lobbyists; amending K.S.A. 46-232 and repealing the existing section, by Senator Hensley.

SB 3, An act concerning the confirmation oversight committee; relating to the membership thereof; amending K.S.A. 2008 Supp. 46-2601 and repealing the existing section, by Senator Hensley.

SB 4, An act concerning the Kansas turnpike authority; relating to tolls; amending K.S.A. 68-2004 and repealing the existing section, by Senator Haley.

SB 5, An act designating part of United States highway 160 as the 1011th Quartermaster Co. U.S. Army Reserve memorial highway, by Senator D. Schmidt.

SB 6, An act amending the charitable organizations and solicitations act; concerning professional fund raisers; amending K.S.A. 17-1766 and repealing the existing section, by Senator D. Schmidt.

SB 7, An act concerning school districts; relating to school finance; amending K.S.A. 2008 Supp. 72-64c04 and repealing the existing section, by Legislative Educational Planning Committee.

SB 8, An act concerning the Kansas tort claims act; concerning the definition of terms used therein; amending K.S.A. 2008 Supp. 75-6102 and repealing the existing section, by Legislative Educational Planning Committee.

SB 9, An act concerning state educational institutions; relating to capital improvements; amending K.S.A. 76-757 and K.S.A. 2008 Supp. 76-756 and repealing the existing sections, by Legislative Educational Planning Committee.

SB 10, An act concerning colleges and universities; relating to fees and tuition; establishing the autism service scholarship program, by Legislative Educational Planning Committee.

SB 11, An act concerning postsecondary institutions; relating to community colleges and the powers and duties thereof; amending K.S.A. 2008 Supp. 71-201 and repealing the existing section, by Legislative Educational Planning Committee.

SB 12, An act concerning insurance; providing coverage for autism spectrum disorder; amending K.S.A. 2008 Supp. 40-2,103, 40-2,105, 40-2,105a and 40-19c09 and repealing the existing sections, by Legislative Educational Planning Committee.

SB 13, An act concerning the Kansas bioscience authority; regarding membership on the board; amending K.S.A. 2008 Supp. 74-99b04 and repealing the existing section, by Senator Hensley.

SB 14, An act concerning the interstate compact for juveniles; relating to the compact administrator; establishing the Kansas council for interstate juvenile supervision, by Joint Committee on Corrections and Juvenile Justice Oversight.

SB 15, An act concerning the revised Kansas juvenile justice code; amending K.S.A. 2008 Supp. 38-2304, 38-2343, 38-2361 and 38-2365 and repealing the existing sections, by Joint Committee on Corrections and Juvenile Justice Oversight.

SB 16, An act concerning the pharmacy act of the state of Kansas; declaring certain acts not to be in violation of said act; amending K.S.A. 65-1636 and repealing the existing section, by Joint Committee on Administrative Rules and Regulations.

SB 17, An act concerning crimes, punishment and criminal procedure; relating to evidence and videotaping of felony interrogations, by Senator Haley.

SB 18, An act concerning the criminal code, creating the crime of deprivation of rights under color of law, by Senator Haley.

SB 19, An act concerning crimes and punishment; relating to the criminal use of weapons; amending K.S.A. 21-4217 and 21-4218 and K.S.A. 2008 Supp. 21-4201 and repealing the existing sections, by Senator D. Schmidt.

SENATE CONCURRENT RESOLUTION No. 1601-

By Senators Morris, D. Schmidt and Hensley

A CONCURRENT RESOLUTION adopting joint rules for the Senate and House of Representatives for the 2009-2010 biennium.

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring

therein: That the following joint rules shall be the joint rules of the Senate and House of Representatives for the 2009-2010 biennium.

JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES 2009-2010

Joint rule 1. Joint rules; application and date of expiration; adoption, amendment, suspension and revocation. (a) *Joint rules; expiration, adoption, amendment, suspension and revocation; vote required.* Joint rules are adopted under the authority of section 8 of article 2 of the Constitution of the State of Kansas and shall govern matters made subject thereto except when otherwise specifically provided by joint rule. Joint rules shall expire at the conclusion of the terms of representatives. Joint rules shall be adopted, amended, suspended and revoked by concurrent resolution of the two houses of the legislature. Concurrent resolutions adopting joint rules shall receive the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified in each house.

(b) Amendment, suspension or revocation of joint rules, previous notice; vote required. After one day's previous notice, joint rules may be amended, suspended or revoked by the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified in each house. Upon the filing of such notice in either house, a message shall be sent to the other house advising of the filing of such notice and the reading of the message shall constitute notice to the members of such house. If such previous notice is not given, the affirmative vote of % of the members then elected (or appointed) and qualified in each house shall be required for the amendment, suspension or revocation of a joint rule.

(c) Amendment, suspension or revocation of joint rules at commencement of legislative session; vote required; conditions. Notwithstanding any provision of this rule to the contrary, no notice shall be required for the adoption of a concurrent resolution amending, suspending or revoking any one or more joint rules at the commencement of a legislative session, and adoption of any such concurrent resolution shall require only the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified in each house, subject to the following conditions: (1) The concurrent resolution is sponsored by the speaker or the president, and (2) either (a) a copy thereof is mailed to each member of the legislature by deposit in the United States mails not later than 11:00 p.m. on the Thursday preceding the Monday on which the legislative session is to commence or (b) in lieu of mailing, copies of the concurrent resolution are made available to members on the first day of the legislative session and final action is taken on a subsequent legislative day.

Joint rule 2. Joint sessions. (a) *Joint session called by concurrent resolution; cote required; time, place and subject matter.* A joint session of the senate and house of representatives may be called by concurrent resolution adopted by the affirmative vote of not less than a majority of the members elected (or appointed) and qualified in each house of the legislature or as may otherwise be prescribed by law. Any such resolution shall fix the time and place of the joint session, and the subject matter to be considered at the joint session. Joint sessions shall consider only such matters as are prescribed by law or by the concurrent resolution calling such joint session.

(b) *Presiding officer at joint sessions; record of joint session; rules applicable.* The speaker of the house of representatives shall preside at all joint sessions of the senate and house of representatives, and the clerk of the house of representatives shall keep a record of the proceedings thereof and shall enter the record of each such session in the journal of the house of representatives. The rules of the house of representatives and the joint rules of the two houses, insofar as the same may be applicable shall be the rules for joint sessions of the two houses.

(c) Votes in joint session; taking; requirements. All votes in a joint session shall be taken by yeas and nays, and in taking the same it shall be the duty of the secretary of the senate first to call the names of the members of the senate, and after which the clerk of the house of representatives shall in like manner call the names of the members of the house. Each member of the senate and the house of representatives present shall be required to vote on all matters considered in joint session, unless excused by a vote of a majority of the members of both houses present. **Joint rule 3. Conference committee procedure.** (a) Action by house of origin of bill or concurrent resolution amended by other house. When a bill or concurrent resolution is returned to the house of origin with amendments by the other house, the house of origin may: (1) Concur in such amendments; (2) refuse to concur in such amendments; or (3) refuse to concur in such amendments and request a conference on the bill or concurrent resolution.

(b) Concurrence by house of origin; concurrence prior to taking action on conference committee report by other house; final action; effect of failure of motion to concur. The house of origin of any bill or concurrent resolution may concur in any amendments made by the other house, except that if the bill or concurrent resolution has been referred to a conference committee such action may only be taken prior to the taking of final action upon the conference committee report upon such bill or concurrent resolution by the other house. A vote in the house of origin of any bill or concurrent resolution on a motion to concur in amendments to such bill or concurrent resolution by the other house shall be considered action on the final passage of the bill or concurrent resolution and the affirmative and negative votes thereon shall be entered in the journal. If the motion to concur is upon amendments to a bill or concurrent resolution for which a conference committee has been appointed and action has not been taken upon the report of such committee by the other house and such motion fails, the bill or concurrent resolution shall not be deemed to have been killed thereby, but if the motion to concur is upon amendments to a bill or concurrent resolution for which a conference committee has not been appointed and such motion fails, the bill or concurrent resolution shall be deemed to be killed.

(c) Motion to nonconcur; when considered final action; effect of adoption of motion. A vote in the house of origin of any bill or concurrent resolution on a motion to nonconcur or to refuse to concur in amendments to such bill or concurrent resolution by the other house which is not coupled with a request for the appointment of a conference committee shall be considered action on final passage of the bill or concurrent resolution and the affirmative and negative votes thereon shall be entered in the journal, and the bill or concurrent resolution shall be deemed killed on the adoption thereof.

(d) House of origin refusal to concur or nonconcur; request for conference; procedure. When a bill or concurrent resolution is returned by either house to the house of origin with amendments, and the house of origin refuses to concur or to nonconcur therein, a conference may be requested by a majority vote of the members present and voting. Such request shall be transmitted to the other house by message which shall include the names of the conferees on the part of the requesting house. Upon receipt of any such message, the receiving house may, in like manner, approve such conference, and shall thereupon notify the requesting house by message stating the names of its conference.

(e) Membership; appointment; chairperson; house of origin of substitute or materially changed bill or concurrent resolution; meetings of conference committee. Each conference committee shall consist of three members of the senate and three members of the house of representatives, unless otherwise fixed by agreement of the president of the senate and speaker of the house. Senate members shall be appointed by the president of the senate and house members shall be appointed by the speaker of the house of representatives. The president or the speaker may replace any conferee previously appointed by such person. Not less than one member appointed from each house shall be a member of the minority political party of such house except when such representation for such house is waived by the minority leader of such house. In all cases, the first-named member of the house of origin of the bill or concurrent resolution assigned to the committee shall be chairperson of the conference committee. The house of origin of a substitute bill or substitute concurrent resolution shall be the house in which the bill or concurrent resolution in its original form was introduced. The chairperson of a conference committee on a bill or concurrent resolution the subject matter of which has been ruled to be materially changed shall be a member of the house which amended the bill or concurrent resolution to materially change the subject matter. Each conference committee shall meet on the call of its chairperson. All meetings of conference committees shall be open to the public and no meeting shall be adjourned to another time or place in order to subvert such policy.

(f) Conference committee reports; subject matters which may be included; report not subject to amendment; house which acts first on report; copies of reports; reports considered under any order of business. Only subject matters which are or have been included in the bill or concurrent resolution in conference or in bills or concurrent resolutions which have been passed or adopted in either one or both houses during the current biennium of the legislature may be included in the report of the conference committee on any bill or concurrent resolution except in any appropriations bill there may be included a proviso relating to any such item of appropriation. A conference committee report shall not be subject to amendment. The original signed conference committee report shall be submitted to and acted upon first by the house other than the house of origin of the bill or concurrent resolution. Copies of each report shall be made available to all members of the house considering the same not later than thirty minutes before the time of consideration of the report, except when such report is that members of the committee are unable to reach agreement or is a recommendation to accede to or to recede from all of the amendments of the second house. The affirmative vote of 3/3 of the members present in the house at the time of consideration of the report shall be sufficient to dispense with distribution of copies of the conference committee report to all members of that house. Reports of conference committees may be received and considered under any order of business.

(g) Signatures required on conference committee reports. All initial conference committee reports other than an agreement to disagree coupled with a request that a new conference committee be appointed shall be signed by all of the conferees. All initial conference committee reports which are an agreement to disagree coupled with a request that a new conference committee be appointed shall be signed by a majority of the conferees appointed in each house. If a conference committee report which is an agreement to disagree coupled with a request that a new conference committee report which is an agreement to disagree coupled with a request that a new conference committee report which is an agreement to disagree coupled with a request that a new conference committee report shall be signed by all conferees unless a subsequent conference committee report shall be signed by all conferees unless a conference committee report subsequent to the adopted, in which case a conference committee report subsequent to the adoption of such report shall be signed by a majority of the conferees appointed in each house. All other conference committee reports shall be signed by a majority of the conference superimite in each house.

(h) Vote to adopt conference committee report final action; effect of failure of motion to adopt conference committee report. The vote to adopt the report of a conference committee, other than a report of failure to agree coupled with a recommendation for appointment of a new conference committee, shall be considered final action on the bill or concurrent resolution and the affirmative and negative votes thereon shall be entered in the journal. If the motion fails, the bill or concurrent resolution shall be deemed to be killed. If the motion on a conference committee report which is an agreement to disagree coupled with a request that a new conference committee be appointed fails, the bill or concurrent resolution shall not be deemed to have been killed thereby and remains in conference.

(i) Report of conference committee unable to agree; effect of failure to request new conference committee; effect of failure of motion to adopt report requesting new conference committee. If a conference committee upon any bill or concurrent resolution is unable to agree, it shall report that fact to both houses. Such report may request that a new conference committee be appointed thereon. If the committee so reports but fails to request the appointment of a new conference committee thereon the bill or concurrent resolution shall be deemed to have been killed upon the adoption by either house of such report. If the motion to adopt a report requesting the appointment of a new conference committee fails, the bill or concurrent resolution shall be deemed to be killed.

(j) Bills or concurrent resolutions under consideration by conference committees and reports thereof; carryover from odd-numbered to even-numbered year. Bills or concurrent resolutions under consideration by a conference committee, or a report of which has been filed but no action taken thereon in either house, at the time of adjournment of a regular session of the legislature held in an odd-numbered year shall remain alive during the interim and may be considered by the committee and legislature as the case may be at the regular session held in the following even-numbered year. **Joint rule 4. Deadlines for introduction and consideration of bills.** The senate and house of representatives shall observe the following schedule of deadlines in making requests for drafting and in the introduction and consideration of bills.

(a) *Bill request deadline for individual members.* Except for bills introduced pursuant to (i) of this rule, no request to draft bills, except those made by committees, through their respective chairpersons, shall be made to, or accepted by, the office of the revisor of statutes after the hour of 5:00 p.m. on January 26, 2009, during the 2009 regular session and on January 25, 2010, during the 2010 regular session.

(b) *Bill introduction deadline for individual members.* Except as provided in (i) of this rule, no bill sponsored by a member or members shall be introduced in either house of the legislature after the hour of adjournment on February 11, 2009, during the 2009 regular session and on February 10, 2010, during the 2010 regular session. Such deadline for the introduction of bills by individual members may be changed to an earlier date in either house at any time by resolution duly adopted by the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified in such house.

(c) *Bill request deadline for certain committees*. Except for bills to be introduced pursuant to (i) of this rule, no committee except the committee on ways and means of the senate, select committees of either house when so authorized, the committee on federal and state affairs of either house or the house committees on calendar and printing, appropriations and taxation shall make a request to the office of the revisor of statutes for any bill to be drafted for sponsorship by such committee after the hour of 5:00 p.m. on February 5, 2009, during the 2009 regular session and on February 4, 2010, during the 2010 regular session.

(d) *Bill introduction deadline for certain committees.* Except as provided in (i) of this rule, no bill sponsored by any committee of either house of the legislature, except the committee on ways and means of the senate, select committees of either house when so authorized, the committee on federal and state affairs of either house or the house committees on calendar and printing, appropriations and taxation shall be introduced in either house after the hour of adjournment on February 13, 2009, during the 2009 regular session and on February 12, 2010, during the 2010 regular session.

(e) *House of origin bill consideration deadline*. No bill, except bills sponsored by, referred to or acted upon by the committee on ways and means of the senate, select committees of either house when so authorized, the committee on federal and state affairs of either house or the house committees on calendar and printing, appropriations and taxation shall be considered in the house in which such bill originated after the hour of adjournment on February 21, 2009, during the 2009 regular session and on February 27, 2010, during the 2010 regular session.

(f) Second house bill consideration deadline. No bill, except bills sponsored by, referred to or acted upon by the committee on ways and means of the senate, select committees of either house when so authorized, the committee on federal and state affairs of either house or the house committees on calendar and printing, appropriations and taxation shall be considered by the house, not the house of origin of such bill, after the hour of adjournment on March 25, 2009, during the 2009 regular session and March 31, 2010, during the 2010 regular session.

(g) *Exceptions to limitation of* (d), (e) and (f); procedure. Specific exceptions to the limitations prescribed in subsections (d), (e) and (f) may be made in either house by resolution adopted by the affirmative vote of not less than a majority of the members of such house then elected (or appointed) and qualified.

(h) *Deadline which falls on day neither house in session; effect.* In the event that any deadline prescribed in this rule falls on a day that neither house of the legislature is in session, such deadline shall be observed on the next following day that either house is in session.

(i) *Bills introduced in odd-numbered years after deadlines; effect.* Bills may be introduced by members and committees in regular sessions occurring in an odd-numbered year after the times prescribed in (b) and (d) of this rule, but there shall be no final action thereon by either house during the session when introduced. Such bills shall be held over for consideration at the next succeeding regular session held in an even-numbered year.

(j) Modification of schedule of deadlines for introduction and consideration of bills; procedure. In any regular session a concurrent resolution may be adopted by the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified of each house setting forth a different schedule of deadlines for introduction and consideration of bills for that session and the provisions of such concurrent resolution shall apply to such session notwithstanding provisions of this rule to the contrary.

(k) *Bill consideration deadline; exceptions.* No bills shall be considered by the Legislature after April 4, 2009, during the 2009 regular session and after April 10, 2010, during the 2010 regular session except bills vetoed by the Governor, the omnibus appropriation act and the omnibus reconciliation spending limit bill provided for under K.S.A. 75-6702 and amendments thereto. This subsection (k) may be suspended for the consideration of a specific bill or bills not otherwise exempt under this subsection by the affirmative vote of a majority of the members then elected (or appointed) and qualified in the house in which the bill is to be considered.

Joint rule 5. Closure of meetings to consider matters relating to security. Any standing committee of the House of Representatives, any standing committee of the Senate, the Legislative Coordinating Council, any joint committee of both houses of the legislature, any special or select committee of the House of Representatives or the Senate, the House of Representatives in session, the Senate in session or a joint session of the House of Representatives and the Senate may meet in closed, executive session for the purpose of receiving information and considering matters relating to the security of state officers or employees, or both, or the security of buildings and property under the ownership or control of the State of Kansas.

MESSAGE FROM THE GOVERNOR

June 12, 2008

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

Kathleen Sebelius Governor

Appointments:

Member, Central Low-Level Radioactive Waste Commission, Shari Feist Albrecht, pursuant to the authority vested in me by KSA 65-34a02, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

Member, State Civil Service Board, Correne K. Green, pursuant to the authority vested in me by KSA 75-2929a, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, State Civil Service Board, Robert B. Van Cleave, pursuant to the authority vested in me by KSA 75-2929a, effective upon the date of confirmation by the Senate, to serve a term of four years.

Reappointments:

Member, Kansas Bioscience Authority, John W. Carlin, pursuant to the authority vested in me by KSA 74-99b04, effective upon the date of confirmation by the Senate to serve a term of four years.

Member, Kansas Bioscience Authority. Sandra Airene Jones Lawrence, pursuant to the authority vested in me by KSA 74-99b04, effective upon the date of confirmation by the Senate to serve a term of four years.

Member, Pooled Money Investment Board, Norman B. Dawson, pursuant to the authority vested in me by KSA 75-4221a, effective upon the date of confirmation by the Senate, to serve a term of four years.

JANUARY 12, 2009

Member, Public Employee Relations Board, Kenneth W. Gorman, pursuant to the authority vested in me by KSA 75-4323, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, *State Banking Board*, Melvin G. Minor, pursuant to the authority vested in me by KSA 74-3004, effective upon the date of confirmation by the Senate, to serve a term of three years.

Member, State Banking Board, Michael R. Downing, pursuant to the authority vested in me by KSA 74-3004, effective upon the date of confirmation by the Senate, to serve a term of three years.

Member, State Banking Board, Winton A. Winter, Jr., pursuant to the authority vested in me by KSA 74-3004, effective upon the date of confirmation by the Senate, to serve a term of three years.

Member, University of Kansas Hospital Authority, Robert W. Honse, pursuant to the authority vested in me by KSA 76-3304, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, Kansas Agricultural Remediation Board, Larry S. Shivers, pursuant to the authority vested in me by KSA 2-3709, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, State Board of Indigent Defense, Lawrence P. Daniels, pursuant to the authority vested in me by KSA 22-4519 et seq., effective upon the date of confirmation by the Senate, to serve a term of three years.

December 10, 2008

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

Kathleen Sebelius Governor

Member, University of Kansas Hospital Authority, Gregory Michael Graves, pursuant to the authority vested in me by KSA 76-3304, effective upon the date of confirmation by the Senate, to serve a term of four years.

Chief Hearing Officer, Kansas Court of Tax Appeals, Trevor Wohlford, pursuant to the authority vested in me by KSA 74-2433 et seq. HB 2018, effective upon the date of confirmation by the Senate, to serve a term of four years.

Brigadier General, Kansas National Guard, Norman E. Steen, pursuant to the authority vested in me by KSA 48-208, effective upon the date of confirmation by the Senate.

Member, Central Low-Level Radioactive Waste Commission, John William Mitchell, pursuant to the authority vested in me by KSA 65-34a02, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

Member, Kansas Human Rights Commission, Terry Lee Crowder, pursuant to the authority vested in me by KSA 44-1003, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, State Board of Indigent Defense Services, John R. Weber, pursuant to the authority vested in me by KSA 22-4519 et seq., effective upon the date of confirmation by the Senate, to serve a term of three years.

Member, Pooled Money Investment Board, J. Thomas Thull, pursuant to the authority vested in me by KSA 75-4221a, effective upon the date of confirmation by the Senate, to serve a term of four years.

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Member, Kansas Electric Transmission Authority, Leslie W. Evans, pursuant to the authority vested in me by KSA 74-99d03, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, University of Kansas Hospital Authority, Sharon Lindenbaum, pursuant to the authority vested in me by KSA 76-3304, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, Kansas, Inc., Patricia Bossert, pursuant to the authority vested in me by KSA 74-8001, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, Kansas, Inc., John A. Pilla, pursuant to the authority vested in me by KSA 74-8001, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, Kansas Technology Enterprise Corporation, Dr. Bruce D. Dallman, pursuant to the authority vested in me by KSA 74-8101, effective upon the date of confirmation by the Senate, to serve a term of four years.

COMMUNICATIONS FROM STATE OFFICERS

January 12, 2009

The Honorable Stephen Morris President, Kansas State Senate State Capitol Topeka, KS 66612

Dear President Morris:

As provided by KSA 75-105, I have received from the Honorable Kathleen Sebelius, Governor of the State of Kansas, since the adjournment of the 2008 session of the legislature the following communications:

Executive Directives Nos. 08-388, 08-389, 08-390, 08-391, 08-392, and 08-393, all relating to Authorizing Personnel Transactions and Expenditure of Federal Funds.

Also, Executive Order No. 2008-06, reformulating the composition of the Kansas Energy Council.

These communications are on file in the office of the Secretary of the Senate and are available for review at any time by members of the legislature.

Sincerely,

Pat Saville Secretary of the Senate

January 12, 2009

The Honorable Stephen Morris President, Kansas State Senate State Capitol Topeka, KS 66612

Dear President Morris:

This letter is to advise you that the Office of the Secretary of the Senate has received the following communications during the interim since adjournment of the 2008 Regular Session of the Legislature.

Kansas Department of Credit Unions, as required by KSA 17-2244(b), reports that a special order has been issued to Salina Municipal Credit Union, Salina, KS, allowing them parity to engage in any activity in which Missouri chartered credit unions operating in Kansas are allowed to perform.

Kansas Health Policy Authority, per KSA 65-6218, submitted the 2007 Annual Legislative Report.

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Kansas Public Employees Retirement System submitted the Actuarial Report of the Kansas Public Employees Retirement System, June, 2008.

Kansas Public Employees Retirement System submitted the Annual Report of the Kansas Public Employees Retirement System for the fiscal year ending June 30, 2008.

Kansas State Treasurer submitted the 2008 Fiscal Year Report for the Kansas State Treasurer Office.

Kansas Wireless Enhanced 911 Advisory Board (KWEAB), submitted the Wireless Enhanced 911 Annual Report.

State of Illinois, Office of the Chief Clerk of the House of Representatives, submitted a copy of House Resolution No. 1325, stating that each year in observance of Memorial Day that the Illinois House of Representatives has continued the established memorial tradition of honoring our fallen brethren by reading an annual list of all of the names of those American soldiers, sailors, airmen, and marines from the State of Illinois that have given the ultimate sacrifice in the preceding year since the previous tribute.

The copy of the resolution is presented to each of the state legislatures throughout the United States and its territories to encourage their annual participation in this tribute to those Americans who have made the ultimate sacrifice to guarantee our freedom.

Sincerely,

Pat Saville Secretary of the Senate

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Morris, D. Schmidt and Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1803-

By Senators Morris, D. Schmidt and Hensley

A RESOLUTION adopting rules for the Senate of the State of Kansas for the terms of the Senators commencing with the 2009 regular session of the Legislature.

Be it resolved by the Senate of the State of Kansas: The following rules shall be the rules of the Senate for the terms of the Senators commencing with the 2009 regular session of the Legislature.

RULES OF THE SENATE 2009-2012

Rule 1. Time of Meetings. The Senate on the first day of a session shall convene at 2:00 p.m., and at all other times shall convene at 2:30 p.m., unless otherwise ordered by the Senate.

Rule 2. Convening—Quorum. The President shall take the chair at the hour fixed for the convening of the Senate, and the roll shall be called in order to ascertain if a quorum is present. A majority of the Senators then elected (or appointed) and qualified shall constitute a quorum, and, in the absence of a quorum, the Senators present, by majority vote, may take such measures as they shall deem necessary to secure the presence of a quorum.

Rule 3. Absence of Member. No Senator shall fail to attend when the Senate is in session without first obtaining leave of the Senate, unless prevented from attending by sickness or other sufficient cause.

Rule 4. Order of Business. The order of business, following the roll call and prayer by the Chaplain, shall be as follows:

- 1. Introduction and reference of bills and concurrent resolutions.
- 2. Consideration of messages from the Governor.
- 3. Communications from state officers.
- 4. Consideration of messages from the House of Representatives.
- 5. Consideration of motions to concur or nonconcur.
- 6. Reports of select committees.

7. Consent Calendar.

- 8. Final Action on bills and concurrent resolutions.
- 9. Introduction of original motions and senate resolutions.
- 10. Correction and approval of the Journal.
- 11. Consideration of motions and senate resolutions.
- 12. Reports of standing committees.
- 13. General orders.

The presentation of petitions shall be a special order of business on Friday of each week immediately preceding the regular order of business.

Rule 5. Business in Order at Any Time. Messages from the Governor, messages from the House of Representatives, introduction and reference of bills and concurrent resolutions, reports of standing committees and reports of select committees may be received and considered under any order of business.

Rule 6. Special Order. Whenever any bill or other matter is made the special order for a particular day, and shall not be reached or completed on that day, it shall be returned to its place in the General Orders, unless it shall be made the special order for another day. When any special order is under consideration, it shall take precedence over any special order for a subsequent hour of the same day, but such subsequent special order shall be taken up immediately after the previous order has been disposed of. Notation of a special order shall be placed before the first order of business on the calendar for that day, giving the subject to be considered and the time fixed for its consideration. When that time arrives, other business shall be suspended until the special order has been considered.

Rule 7. Standing Committees. There shall be a standing committee named the Committee on Organization, Calendar and Rules which shall consist of nine members, the chairperson of which shall be the president of the senate, and the vice chairperson of which shall be the majority leader of the Senate. The Vice President of the Senate shall be a member of the committee. Each of the other six members shall be selected separately by the majority political party of the Senate.

No bill or resolution other than resolutions adopting, amending or revoking rules of the Senate or Joint Rules of the Senate and House of Representatives, shall be introduced by or be referred to the Committee on Organization, Calendar and Rules.

The following shall be the other standing committees:

Number of members

of members
1. Agriculture
2. Assessment and Taxation
3. Commerce
4. Confirmation Oversight Committee
5. Education
6. Ethics and Elections
7. Federal and State Affairs
8. Financial Institutions and Insurance
9. Interstate Cooperation
10. Judiciary
11. Local Government 9 12. Natural Resources 9
12. Natural Resources
13. Public Health and Welfare
14. Reapportionment
15. Transportation
16. Utilities
17. Ways and Means

The Committee on Organization, Calendar and Rules shall appoint the members of each committee, shall appoint the chairperson and vice chairperson or vice chairpersons thereof and shall designate the ranking minority member of each committee. The minority leader shall submit recommendations for the appointment of minority members to the standing committees of the Senate to the Committee on Organization, Calendar and Rules. The Committee on Organization, Calendar and Rules shall have a standing subcommittee on calendar which shall be the president of the senate, the vice president of the senate and the majority leader of the Senate. The Majority Leader shall be the chairperson of the subcommittee. The Committee on Organization, Calendar and Rules may establish such other subcommittees of the Committee on Organization, Calendar and Rules as the Committee deems appropriate.

For the purpose of considering committee member appointments, and appointments of chairpersons, vice-chairpersons and ranking minority members, and for such other purposes as may be authorized by law, by the joint rules of the senate and the house of representatives or by rules of the senate for closed meetings, the Committee on Organization, Calendar and Rules may close its meetings.

The two major political parties shall have proportional representation on each standing committee other than the Committee on Organization, Calendar and Rules. In the event application of the preceding sentence results in a fraction, the party having a fraction exceeding .5 shall receive representation as though such fraction were a whole number.

Rule 8. Special and Select Committees. Special and Select committees of the Senate and the Chairperson thereof shall be appointed by the President.

Rule 9. Standing Committees—Duties of Chairperson, etc. (a) The chairperson of each committee shall preside at all meetings of the committee. The chairperson may designate another member to preside in the absence of the chairperson and vice chairperson.

(b) The chairperson of each committee may call a special meeting of the committee when necessary.

(c) The chairperson shall have full charge of the committee.

(d) The chairperson of each committee shall cause minutes of each meeting of the committee to be prepared, subject to approval of the committee at a later meeting. Minutes shall show the action taken by the committee upon each bill or resolution considered and the amendments if any voted upon and the disposition of each, whether adopted or not. At the request of the author of a bill or resolution or any amendment to a bill or resolution, or on request of any member of the committee, the intent of the author shall be stated in the committee minutes. At the conclusion of each legislative session copies of all committee minutes shall be filed with the Director of Legislative Administrative Services.

Rule 10. Vote in Senate Committee. At the time of taking any action upon any bill or resolution, any member of a committee may demand a division of the vote and the chairperson shall be required to record the results of the vote as a part of the minutes.

Rule 11. Committee Action on Bills and Resolutions. (a) A committee may recommend that the Senate act favorably, unfavorably or without recommendation upon any measure or may recommend amendments to measures referred to it which are germane to the subject of the measure. Committee recommendations shall be made by committee report to the Senate. Committee reports shall be signed by the chairperson, and shall be transmitted to the Senate not later than the second legislative day following the action of the committee.

(b) When a committee fails to report on any bill or resolution following reference to such committee, it may be withdrawn from the committee by an affirmative vote of 24 members of the Senate on a motion made as provided in this subsection. Such a motion shall be made in writing, giving the reasons for withdrawal from the committee. Such motion shall be made under the order of business introduction and notice of original motions and Senate resolutions. Only one bill or resolution may be named in such a motion. The motion shall be read by the reading clerk or the member making the motion and shall be printed in the calendar of the next legislative day under the order of business consideration of motions and Senate resolutions offered on a previous day. The motion shall be considered on the legislative day it is made. If the motion prevails, the bill or resolution shall be placed on the calendar under the order of business General Orders.

(c) Motions to withdraw a bill or resolution from a committee are not subject to amendment or debate.

Rule 12. Adversely Reported Bills and Resolutions. All bills or resolutions adversely reported shall go upon the Calendar for one day, under the head of Bills Adversely Reported. A motion to place an adversely reported bill (or resolution) under the order of business General Orders on the Calendar shall be made when the bill (or resolution) is upon the

Calendar and shall be made when Introduction of Original Motions and Senate Resolutions is in order, and that motion shall then lie over until the next legislative day when the order of business Consideration of Motions and Senate Resolutions is reached, but if such motion is defeated once it shall not be renewed. If an adversely reported bill or resolution has been previously referred separately under Rule 32 (authorizing the reference of the same bill or resolution to two or more standing committees), then the motion shall be to return the adversely reported bill (or resolution) with the committee report attached to the next committee to which it was referred. If the motion to place the bill (or resolution) on the Calendar under the order of business General Orders or to return the bill (or resolution) to the next committee of reference shall prevail, then the words "Adversely Reported" shall be printed in a line underneath the title of the bill or resolution, and to prevail such motion shall require an affirmative vote of 24 members of the Senate.

Rule 13. When Bill or Concurrent Resolution Placed on General Orders. When a bill or a concurrent resolution to amend the constitution has been reported to the Senate by a committee with the recommendation that it pass or be adopted, it shall immediately be placed on the Calendar under the order of business General Orders.

Rule 14. Address the President—To Be Recognized—Speak But Twice on the Same Subject. Every Senator rising to debate or to present any matter, shall address the President, and shall not proceed until recognized. When two or more Senators shall address the President at the same time, the President shall name the Senator who is to speak first. No Senator shall speak more than twice on the same day on the same subject without leave of the Senate.

Rule 15. No Senator Shall Be Interrupted. No Senator, when speaking shall be interrupted except by a call to order by the presiding officer, or by a Senator through the presiding officer, desiring to ask a question. If a Senator speaking yields to a question, the interruption shall be confined solely to such question. Senators shall be referred to as "the Senator from _______" (naming the Senator's home county) followed by the Senator's title and name.

Rule 16. Personal Privilege. Senators raising a point of personal privilege shall confine themselves to remarks which concern themselves personally and shall not address or debate matters under consideration by the Senate.

Rule 17. Questions of Order—How Determined. A question of order may be raised at any time and when a Senator shall be called to order the Senator shall stop speaking until the presiding officer has determined whether the Senator was in order. Every question of order shall be decided by the presiding officer, subject to an appeal to the Senate by any member.

Rule 18. Explaining Votes. Senators may explain their votes only upon the call of their names upon any roll call vote, but not more than two minutes shall be allowed for any explanation. The explanation shall be inserted in the Journal if the Senator makes a request at the time of voting or makes a request of the Secretary of the Senate prior to adjournment, and the written explanation is presented to the Secretary of the Senate during or within two hours following that day's adjournment on the same legislative day. No Senator in explaining a vote may use the name of or otherwise identify any other Senator as part of the explanation without the consent of the other Senator. No written explanation shall contain more than 200 words.

Rule 19. Vote Unless Excused—Contempt. Any Senator, who is directly interested in a question, may be excused from voting, even though there is a call of the Senate. The Senator, who is requesting to be excused from voting, shall state the reasons for the request, occupying not more than five minutes. Such statements shall be made either immediately before or immediately after the vote is called but before the result is announced. The question on excusing any Senator from voting shall be taken without debate and a $\frac{4}{5}$ majority of those voting shall be necessary to excuse the Senator. If a Senator refuses to vote, when not excused, such refusal shall constitute contempt and the President shall, in such case, order the offending Senator before the bar of the Senate and all privileges of membership shall be refused such Senator until the contempt shall be duly purged.

Rule 20. When Not Permitted to Vote. No Senator shall be allowed to vote unless the Senator is seated in the Senator's assigned seat within the Senate chamber when the vote is taken.

Rule 21. Vice President and Filling Certain Vacancies. (a) In the absence of the President, the Vice President shall assume the duties of the President. The President or Vice President may also name any Senator to temporarily perform the duties of the chair, but the Senator so named shall not act as President beyond adjournment, unless by leave of the Senate. A Senator shall not lose the right of voting on any subject while serving or acting as President.

(b) When a vacancy occurs in the office of President and the Legislature is adjourned to a date more than 60 days after the occurrence of the vacancy, the Senate shall meet within 30 days and elect a member to fill the vacancy. The Vice President shall within 10 days of such occurrence issue a call for the meeting at a time not less than 10 days and not more than 20 days after the date of the call.

(c) When a vacancy occurs in the office of Vice President or majority leader of the Senate, and the Legislature is adjourned to a date more than 30 days after the occurrence of the vacancy, the President shall appoint an acting Vice President or acting majority leader to serve until the convening of the next session of the Legislature, at which time the vacancy shall be filled as though the acting interim appointment had not been made.

(d) When a vacancy occurs in the office of minority leader of the Senate and the Legislature is adjourned to a date more than 30 days after the occurrence of the vacancy, the assistant minority leader shall become the acting minority leader to serve until the convening of the next session of the Legislature, at which time the vacancy shall be filled as though the acting minority leader had not so served.

(e) It is the intention of this rule that any person elected, appointed or designated to serve in accordance herewith to fill a vacancy shall exercise all of the duties and powers of the office so filled.

Rule 22. Party affiliation-change. If any Senator changes political party affiliation (1) from the political party of such Senator at the time of the Senator's election, or (2) if the Senator was appointed, from the political party of the district convention which elected such person to be so appointed, the following shall apply:

(a) Such Senator shall be removed from all memberships on standing and other committees, from all positions of chairperson or vice chairperson of a standing or other committee, and from any office of the Senate held at the time of such change. The Committee on Organization, Calendar and Rules shall appoint a Senator to fill any vacancy which arises under this subpart (a).

(b) The proportion of Senators from major political parties on each standing committee originally determined under Rule 7 (providing for proportional representation of members of political parties upon standing committees) shall not be altered. The Committee on Organization, Calendar and Rules shall fill each standing committee member position vacated by such Senator by appointing a Senator of the political party from which such Senator changed.

Rule 23. Caucuses May Be Closed. Caucuses of Senate majority and minority parties may be closed.

Rule 24. Motions in Writing. All motions to amend bills and resolutions shall be made in writing, and upon request of any Senator shall be read by the reading clerk before being voted upon. All other motions shall be reduced to writing when desired by any Senator.

Rule 25. Motions Withdrawn. Any motion may be withdrawn by the maker before amendment or decision is made thereon except as the foregoing is modified by Rule 41 (relating to procedure in the committee of the whole).

Rule 26. Motions in Order When Question Under Debate. When a question is under debate, no motion shall be in order, except:

Not Debatable

1. To fix time to which to adjourn.

2. To adjourn.

3. To lay on the table.

- 4. For the previous question.
 - Debatable
- 5. To postpone to a day certain.
- 6. To commit to a standing committee.
- 7. To commit to a special committee.
- 8. To commit to the Committee of the Whole.
- 9. To amend.
- 10. To postpone indefinitely.

The several motions specified in this rule shall have precedence in the order named and the first four shall be decided without debate.

Rule 27. Division of Question. (a) If the question in debate contains several points, any Senator may have the same divided, but a motion to strike out and insert shall be indivisible. When a bill or resolution is under consideration in the Senate and after debate is concluded and final action has been announced on the bill or resolution, a request for division of question shall not be in order.

(b) A request for division of question shall be in writing specifying the manner in which the question is to be divided.

(c) The rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert another proposition, nor prevent a subsequent motion simply to strike out; nor shall the rejection of a motion simply to strike out prevent a subsequent motion to strike out and insert.

Rule 28. Reconsideration of Pending Matters. When a question has been once put and decided it shall be in order for any Senator who voted with the prevailing side to move for a reconsideration thereof, but no motion for reconsideration of any vote shall be in order after the bill, resolution, message, report, amendment or motion, upon which the vote was taken, shall have gone out of the possession of the Senate, nor shall any motion for reconsideration be in order unless made on the same day on which the vote was taken or the next legislative day. No question shall be reconsidered more than once.

Rule 29. Previous Questions. Five Senators shall have the right to move the previous question on any bill, resolution, message, report, amendment, or motion. If no amendment is pending the previous question shall be as follows: "Shall the main question be now put?" If the previous question is decided in the affirmative by a majority vote of those present the main question shall be put without further amendment or debate. If amendments are pending a motion for the previous question is adopted, the debate will be closed only upon such amendment. The previous question on other questions than the main question shall be as follows: "Shall the question shall be as follows: "Shall the previous question is adopted, the debate will be closed only upon such amendment. The previous question on other questions than the main question shall be as follows: "Shall the previous question on other questions than the main question shall be as follows: "Shall the question and the camendment, amendment of an amendment, substitute or other motion affecting same as the case may be) now be put?"

Rule 30. Endorsement on Bills, etc. Before any bill, resolution or petition, addressed to the Senate, shall be received or read, the title of the bill or resolution or a brief statement of the contents of the petition shall be typed on the jacket, with the name of the Senator or committee introducing it.

Rule 31. Introduction of Bills and Concurrent Resolutions. Every bill and concurrent resolution shall be introduced by a Senator, by a committee, on the report of a committee, by message from the House of Representatives, or by proper prefiling as provided by law. For the purpose of introduction, every bill and concurrent resolution shall be placed in the possession of the secretary and the reading clerk shall read the title, except citations of statutes amended or repealed. The reading clerk shall also read the name of the sponsor of the bill or resolution if it has a single sponsor. If the bill or resolution has two sponsors the reading clerk shall read the name of the first sponsor together with the words "and others."

Rule 32. Reference of Bills and Resolutions. All bills shall be referred or rereferred to appropriate standing committees or the committee of the whole by the President. Upon the day of its introduction or upon the next legislative day the President shall refer every bill and each concurrent resolution to be referred to the appropriate standing committee or

the committee of the whole. Bills or resolutions prefiled under K.S.A. 46-801 et seq. and amendments thereto may be referred by the President to the appropriate standing committee or the committee of the whole at any time subsequent to the prefiling of such bill or resolution with the secretary of the senate. Bills introduced by committees, if germane to the purpose and scope of the committee, may be referred to the Committee of the Whole; otherwise to the appropriate standing committee. All bills making an appropriation shall be referred to the Committee on Ways and Means. The President may refer a bill or resolution to two or more standing committees jointly, or separately, in such order as the President may direct, and such bill or resolution, when so referred, shall be considered by the committees in joint meeting, or by each of the committees separately in the order named in the reference, and when the reference is made jointly, the chairperson of the committee named first shall be chairperson of the joint committee.

Rule 33. Consent Calendar and Recording Reports. Whenever a standing committee is of the opinion that a bill or resolution upon which it is reporting is of non-controversial nature, it shall so state in its committee report. Whenever a bill or resolution is so reported, it shall be placed upon a separate calendar, to be known as the Consent Calendar. Each bill or resolution appearing on the Consent Calendar shall remain thereon for at least two full legislative days before being considered under the order of business Final Action. At any time prior to the call for the vote under the order of business Final Action on a bill or resolution on the Consent Calendar, any member may object to the same as being controversial and the same shall be stricken from the Consent Calendar and take its place on General Orders in the usual order. If no such objection is made prior to the call for such vote on the bill or resolution, it shall be voted upon with other bills and resolutions under the order of business Final Action supering on the calendar under such order of business.

Rule 34. Final Action on Bills and Concurrent Resolutions. On final action on any bill or concurrent resolution, the reading clerk shall read the title, except citations to statutes amended or repealed. If the bill is reported for final action without debate, the question shall be at once put: "Shall the bill pass?" No debate shall be allowed, and no motion shall be in order except the motion to adjourn, or for a call of the Senate, unless in case where a bill has been ordered to be placed on final action subject to amendment, or to amendment and debate or unless by the unanimous consent of the Senate, amendments may be made and considered. Like procedure shall apply to concurrent resolutions except that the question put shall be: "Shall the resolution be adopted?" On final action, bills and resolutions may be bulked together for roll call unless objection be made by any Senator.

Rule 35. Final Passage by Yeas and Nays. The question upon the final passage of a bill and every concurrent resolution for amendment of the constitution of Kansas or ratification of an amendment to the Constitution of the United States shall be taken by a roll call vote of the yeas and nays, which shall be entered on the Journal, and unless the bill or concurrent resolution receives the number of votes required by the constitution to pass it, it shall be declared lost, except in cases provided for in Rule 36 (relating to the absence of a quorum).

Rule 36. No Quorum on Final Vote—Effect. If, on taking the vote on final action on a bill or concurrent resolution, it shall appear that a quorum is not present, then the bill or concurrent resolution shall retain its place on the Calendar and shall again be considered for final action when that order of business is again taken up by the Senate.

Rule 37. Roll Call Vote. A roll call vote shall be taken upon all questions upon the demand of five Senators.

Rule 38. Call of Senate—When Made—How Enforced. A call of the Senate may be had upon the demand of five Senators, pending a roll call on the final passage of any bill or resolution, or on any motion to strike the enacting clause, or indefinitely postpone any bill or resolution, and before the result is announced. When a call is demanded, the President shall order the doors of the Senate to be closed, and direct the Secretary to call the roll of the Senators and note the absentees, after which the names of the absentees shall be again called, and those for whose absence no sufficient excuse is given may be sent for and taken into custody by the Sergeant at Arms, or by Assistant Sergeants at Arms appointed for the purpose, and brought before the bar of the Senate, where unless excused by a majority of the Senators present, they shall be reproved by the President for the neglect of duty.

Rule 39. Dispense with Further Proceedings under Call of Senate. No motion to dispense with further proceedings under the call of the Senate shall be entertained until the President shall be satisfied that the Sergeant at Arms has made diligent effort to secure the attendance of the absentees.

Rule 40. Roll Call Votes. Every Senator in the Senate chamber when a roll call is taken shall respond when the Senator's name is called. If there is a call of the Senate, the Senator must vote Yea or Nay, except as provided in Rule 19 (senators excused from voting if directly interested in the question). When there is no call of the Senate, the Senator may pass and shall be recorded in the Journal as present and passing. After the roll is completed and before the roll is closed, a Senator may change such Senator's vote. No vote shall be recorded and no change in vote may be made without unanimous consent of the Senate after an nouncement by the presiding officer that the roll is closed.

Rule 41. Committee of the Whole. On motion the Senate may go into Committee of the Whole. The President shall appoint a chairperson to preside over the Committee of the Whole. The rules of the Senate shall be observed in the Committee of the Whole, so far as applicable except that there shall be no limit on the number of times of speaking and Rule 38 (authorizing a call of the senate) shall not apply. A motion to lay on the table or a call for the previous question shall not be in order. No substitute motion to amend a bill or resolution shall be decided subject only to debate and Rule 51 (motion to strike the enacting or resolving clause). A roll call shall be had on any question subject to the requirements of Rule 37, but no more than five roll calls shall be taken upon any bill or resolution under consideration in the Committee of the Whole.

Rule 42. No Quorum in Committee of the Whole—Procedure. If at any time, when in Committee of the Whole, it be ascertained that there is no quorum present, the chair-person shall immediately vacate the chair and report the fact to the President.

Rule 43. How Bills or Resolutions Considered—Committee of the Whole. Bills or resolutions shall be considered in Committee of the Whole in the following manner: The standing committee report shall first be considered and if it is adopted the bill or resolution as amended by the committee report shall be considered section by section, and as each section is considered, amendments from the floor are in order to that section. If the committee report is not adopted, the bill or resolution, without committee amendments, shall be considered section by section. After a section has been considered and amendment from the floor are in order to that section. After a section has been read through. After the original bill or resolution, together with standing committee amendments, has been considered section by section the chairperson shall announce "Amendments to the bill (or resolution) generally are in order," and amendments not before offered may be made to any part of the bill or resolution. A motion to amend the bill or resolution shall not be in order while a motion to strike the enacting clause or resolving clause is pending.

Rule 44. Amendments. (1) Amendments to bills shall be germane to the subject of the bill being amended, and the fact that an amendment is to a section in the same chapter of the Kansas Statutes Annotated as an existing section in the bill shall not automatically render the amendment germane. Amendments to concurrent resolutions for amendments of the constitution of Kansas or ratification of an amendment to the Constitution of the United States shall be germane to the subject of the resolution being amended.

(2) All amendments to bills or resolutions shall be submitted in writing on a form provided by the Senate or on a form substantially similar. All amendments to printed bills or resolutions shall specify the page and line number as shown on the printed bill or resolution. If a bill or resolution has not been printed, amendments must refer to the typed bill or resolution. All amendments offered, whether adopted or rejected, together with the action taken thereon, shall be recorded in the Journal. When a bill or resolution has been amended, it shall be engrossed before it is enrolled. (3) In the case of amendment by substitute bill or by substitute concurrent resolution, motion shall be made to substitute a written bill or concurrent resolution for the bill or concurrent resolution under consideration.

Rule 45. Report of Committee of the Whole Subject to Amendment—Time for. The report of the Committee of the Whole is subject to amendment to correctly reflect what has occurred in the Committee of the Whole by motions made at the time the report is offered for adoption by the Senate. When a bill is reported with the recommendation that the enacting clause be stricken, and the report is agreed to by the Senate, the bill shall be considered killed.

Rule 46. Motion for Committee of the Whole to Arise and Report Progress. A motion that the Committee of the Whole shall rise and report progress on any bill shall always be in order and shall be decided without debate, and the matter being considered shall be the first order of business at the next session of the committee, subject to such postponement as the subsequent Committee of the Whole may determine.

Rule 47. Division of the Senate. Whenever a voice vote has been taken upon any question in either the Senate or the Committee of the Whole, any Senator may call for a division of the Senate or Committee of the Whole.

Rule 48. Bills and Resolutions to Final Action. When the Committee of the Whole shall favorably report a bill or resolution, and the report is adopted by the Senate, the bill or resolution shall be considered as ordered to the order of business Final Action. The vote upon the final passage of the bill shall not be taken on the same day on which the bill is placed on Final Action. Bills and resolutions to be sent to the House shall be properly corrected under the supervision of the Secretary of the Senate. The Secretary of the Senate is authorized to correct misspelled words, punctuation and "doublets" or repeated words when preparing bills, resolutions or other documents for signature by officers of the Senate and House.

Rule 49. Bills and Resolutions—Inclusion of Amendments. When a bill or resolution is amended, the Secretary of the Senate shall attach to the original copy all amendments made in the Senate. Substitute bills and substitute concurrent resolutions shall accompany the bill or concurrent resolution for which each is substituted. Upon passage, Senate bills or resolutions, including the original copy and amendments, shall be transmitted to the House.

Rule 50. Reports of Transmittals in Journal—Committee—Reports. Report of transmittal of bills and resolutions to the House shall be immediately entered upon the Journal.

Rule 51. Motion to Strike Enacting or Resolving Clause—Debate Limited. No Senator may speak more than twice on a motion to strike the enacting clause of a bill or the resolving clause of a resolution, and no other motion, except a motion to adjourn, shall be in order until the motion to strike the enacting clause or resolving clause has been decided by roll call vote.

Rule 52. Two-thirds Vote Not Necessary Except on Final Passage of Resolution. When a resolution requiring a vote of % of the Senate for adoption is under consideration, a vote of % shall not be needed to decide any question short of its final passage, except as provided by these rules.

Rule 53. Bills Considered in Regular Order. The Subcommittee on Calendar of the Committee on Organization, Calendar and Rules shall designate from day to day and from time to time the bills to be considered that day and on the next legislative day, and the order of consideration fixed by this subcommittee shall not be changed, except by unanimous consent or by a ²/₃ vote of all the members of the Senate then elected (or appointed) and qualified, if unanimous consent is refused.

Rule 54. Changing Order on Calendar. Not more than one bill may be named in a motion to change the order of the Calendar, and on each motion no Senator except the Senator making the motion shall speak more than once, nor longer than five minutes.

Rule 55. Resolutions—Classes—Procedures Thereon. Resolutions shall be of the following classes: (1) Senate resolutions; and (2) Senate concurrent resolutions. In acting on them, the Senate shall observe the following procedure:

(1) Senate resolutions shall be in writing, shall be read and shall lie over one day. Senate resolutions other than resolutions for the amendment of rules of the Senate shall not be printed unless ordered by the Senate. There shall be no roll call unless ordered. With the consent of the majority of Senators present and voting, either the requirement to read Senate resolutions or the requirement to lie over one day, or both, may be dispensed with.

(2) Senate concurrent resolutions shall be in writing, shall be read by title, and shall lie over one day. All Senate concurrent resolutions shall be printed, and shall require a roll call on motion to adopt. Propositions to amend the constitution shall be made by concurrent resolution and referred to the proper committee. Other concurrent resolutions may be referred to a proper committee by the President.

All House concurrent resolutions, when in the Senate, shall follow the same procedure as Senate concurrent resolutions.

This rule shall not apply to resolutions relating to the business of the day, nor to resolutions for organization or adjournment.

Rule 56. Confirmation of appointments by Governor or other state official. All nominations or appointments made by the governor or other state official, which are subject to Senate confirmation, may be considered and acted upon by the Senate in either executive or regular session except that no final action thereon may be taken in executive session. When nominations or appointments are made by the governor or other state official for confirmation by the Senate, they shall, unless otherwise ordered by the President, be referred to appropriate committees by the President. Nominations or appointments referred to committees shall be returned to the Senate within 20 legislative days after the same are referred, together with a report thereon, unless additional time be granted by a majority vote of senators present. If the nomination or appointment is not returned to the Senate within the period of time specified for its return and additional time has not been granted, the nomination or appointment shall be considered to be returned to the Senate without recommendation on the next legislative day following the last day of the period of time specified for its return. Any such appointment may be considered and acted upon by the Senate at any time after the nomination or appointment is returned to the Senate. No motion to confirm any such appointment or nomination shall be in order without the unanimous consent of the Senate until the nomination or appointment is returned to the Senate, unless one day's previous notice thereof is given in open session. Appointments shall be confirmed by the Senate only by an affirmative vote of a majority of all members of the Senate then elected (or appointed) and qualified.

Rule 57. Admittance to Floor—Lobbying on Floor—Galleries. No person shall be admitted to the floor of the Senate except elective state officers; members of the Legislature; friends of the members of the Senate, upon invitation signed by the President and the Senator extending the invitation; former members of the Senate, officers and employees of the legislative branch, and members of the news media who are actually employed, and who have a card of admission from the President. The Senate by resolution, may issue such invitations as it desires. Persons so admitted must stay in the perimeter of the Senate chamber except with the express permission of a member of the Senate. No one registered with the Secretary of State as an agent or lobbyist may be on the floor of the Senate during the hours of 9:30 a.m. to 4:30 p.m. nor at the time the Senate is in session. No person, other than a state officer or employee of the legislative branch or legislator, shall discuss any measure with any Senator on the floor of the Senate during the time the Senate is in session. Any person who violates this rule or any person who shall gain admission to the floor of the Senate by false representation shall be forthwith ejected from the Senate chamber and thereafter be denied admission. No employee shall lobby for or against any measure pending in the Senate, and any employee violating this rule shall be forthwith discharged. Former members of the Senate may be introduced when on the floor, but no other introductions shall be made during the session of the Senate, except the President may announce the attendance of school students or other groups visiting the Senate.

Visitors shall be allowed in one or both galleries of the Senate in accordance with directions to the Sergeant at Arms from the President.

Rule 58. Electronic Devices. The use of telephones and the making of telephone calls in the galleries of the Senate are prohibited. Except for security personnel, the use of

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wireless electronic telecommunications devices emitting an audible sound or tone to announce or initiate communications in a committee room during any time when a committee or subcommittee is in session in the room, in the galleries during any time when the Senate is in session and in the Senate Chamber during any time the Senate is in session is prohibited. The use of video recorders or other video equipment in the galleries is prohibited.

Rule 59. Chairs of Senators. No person except a member of the Senate, shall occupy the chair of any Senator at any time except with the approval of and in the presence of a member of the Senate.

Rule 60. The News Media. Employees of the news media having a card of admission from the President may occupy space designated for them in the Senate chamber. They shall be subject to all the rules of the Senate and shall conduct themselves with proper decorum while in the Senate chamber. They shall not lobby, directly or indirectly, for or against any measure pending before the legislature.

Rule 61. Secretary of Senate—Duties. The Secretary of the Senate shall be appointed by the President. It shall be the duty of the Secretary to call the roll; report correctly the result of all votes; correct the Journal as may be directed by the Senate; read all bills, resolutions, petitions or other papers which the Senate may require; deliver all messages to the House of Representatives; certify all enrolled bills and present same to the President or Vice President of the Senate for signature; endorse upon every paper presented in the Senate the successive stages of action had thereon, and see that proper records are made of the transmission of every paper from one house to the other, or from one office to another; and attend generally to such other matters as the office may require. The Secretary of the Senate shall deliver to the printer all bills and other documents ordered to be printed and take the receipt of the printer therefor. In order to secure a uniform and systematic procedure, the following clerks and their assistants shall be under the supervision of the Secretary: Assistant Secretary of the Senate, Journal Clerks, Calendar Clerks, Enrolling Clerks, Bill Status Clerk, Reading Clerk and Bill Clerk.

Rule 62. Impeachment. The provisions of this rule shall apply to impeachment, and nothing in the rules of the Senate or in any statute shall impair or limit the powers of the Senate with respect to impeachment. In addition to other powers, the President shall possess the powers and perform the duties in this rule.

 $(\bar{1})$ The President shall call the Senate into session within 30 days of the receipt by the President of any request by a board of managers of the House of Representatives to lay articles of impeachment before the Senate.

(2) The Senate by a majority vote of the members then elected (or appointed) and qualified may adopt, amend or suspend rules applicable to trial of any impeachment.

(3) The President and any officer or committee acting under authority of this rule may follow any statutory procedure to the extent the same is not in conflict with the provisions of this rule, but nothing in this rule nor in any statute shall be deemed to constitute a waiver of any inherent powers of the Senate.

Rule 63. Sergeant at Arms—Duties. The Sergeant at Arms shall be appointed by the President, and shall serve under the President's direction, control and supervision and at the President's pleasure and shall execute all orders of the President or Senate. The Sergeant at Arms shall have the general supervision of the Senate Chamber, the cloak rooms, gallery and lobby, and shall preserve order within the chamber at all times. The Sergeant at Arms may arrest and take into custody any person gaining admission to the floor of the Senate through false representations or violation of Rule 57 (listing persons authorized to be admitted to the floor of the Senate). All violations shall be immediately reported to the President for action by the Senate. No person except those entitled to admittance on the floor of the Senate) shall lounge or loaf in the Senate chamber when the Senate is not in session, and the Sergeant at Arms shall detail at least one assistant to remain in the chamber at all times when the same is open. The President may appoint and remove Assistant Sergeants at Arms to serve under the supervision of the Sergeant at Arms. All doorkeepers and night watchmen shall be assistant Sergeants at Arms.

Rule 64. Requisitions for Printing. All requisitions upon the Director of Printing for calendars, bills, documents, and printed matter of any nature whatsoever, must be approved by the Director of Legislative Administrative Services.

Rule 65. Employees—Duties. All employees shall report each day to their respective supervisors. The Director of Legislative Administrative Services or some person designated by the director shall keep a record of the attendance of each employee. The Director of Legislative Administrative Services may discharge any employee at any time. The word "employee" as used in this section shall include all persons employed by the Senate, except the secretaries of each of the members of the Senate and except the Secretary of the Senate.

Rule 66. Pages. Not more than 20 pages shall serve during any legislative day. Appointments shall be restricted to boys and girls of junior high or high school age.

Rule 67. Secretaries to Members. Each Senator shall be entitled to select a secretary and shall inform the Director of Legislative Administrative Services of the selection. The secretaries shall not be paid for time they are not in attendance unless excused by their respective Senators. From the convening of the Senate until adjournment on any day, except during recesses, no Senator's secretary shall be stationed at the Senator's desk, except that this provision shall not apply to the administrative assistant designated by the President.

Rule 68. Suspension of Rules. (a) A motion to suspend the rules may be made and considered under any order of business. A ³/₂ affirmative vote of all Senators then elected (or appointed) and qualified shall be required for its adoption. The motion shall be decided without debate.

(b) A motion to declare an emergency, suspend the rules, and advance a bill to Final Action shall be considered as one motion. It may be made and considered immediately under any order of business, and be debatable on the question of the emergency. A $\frac{2}{3}$ affirmative vote of all Senators then elected (or appointed) and qualified shall be required for its adoption.

(c) A bill advanced to Final Action under subsection (b) which is not considered during the legislative day on which it is advanced to Final Action shall be placed on the next legislative day on the Calendar under the order of business General Orders.

Rule 69. Amendments to Rules. No rule of the Senate shall be adopted, amended or revoked without the affirmative vote of a majority of all members of the Senate then elected (or appointed) and qualified, and no motion to adopt, amend or revoke any rule of the Senate shall be in order without the unanimous consent of the Senate, unless one day's previous notice thereof shall be given in open session.

Notwithstanding any provision of the rules of the Senate to the contrary, no notice shall be required for the adoption of a resolution adopting, amending or revoking any one or more rules of the Senate at the commencement of a legislative session, and adoption of any such resolution shall require only the affirmative vote of not less than a majority of the Senators then elected (or appointed) and qualified, subject to the following conditions: (1) The resolution is sponsored by the President or any three Senators, and (2) either (a) a copy thereof is mailed to each Senator by deposit in the United States mails not later than 11:00 p.m. on the Thursday preceding the Monday on which the legislative session is to commence or (b) in lieu of mailing copies of the resolution are made available to Senators on the first day of the legislative session and Final Action is taken on the second legislative day.

Rule 70. Robert's Rules of Order. In all cases where these rules or the joint rules of the Senate and House of Representatives do not apply, the rules of parliamentary law in Robert's Rules of Order Newly Revised shall govern.

Rule 71. Number Designation of Substitute Bills and Substitute Concurrent Resolutions. (a) Whenever a substitute bill is recommended by a committee report, and whenever a substitute bill is approved by amendment from the floor, the substitute bill shall be printed as provided for bills introduced, and the bill number designation shall be substantially as follows:

(1) In the case of bills substituted for Senate bills, "Substitute for Senate Bill No. ____," and the blank shall be filled with the number of the bill for which substitution is made or recommended.

(2) In the case of bills substituted for House bills, "Senate Substitute for House Bill No._____," and the blank shall be filled with the number of the bill for which substitution is

made or recommended. (b) Whenever a substitute concurrent resolution is recommended by a committee report,

and whenever a substitute concurrent resolution is approved by amendment from the floor, the substitute concurrent resolution shall be printed as provided for concurrent resolutions introduced, and the resolution number designation shall be substantially as follows:

(1) In the case of concurrent resolutions substituted for Senate concurrent resolutions, "Substitute for Senate Concurrent Resolution No. _____," and the blank shall be filled with the number of the concurrent resolution for which substitution is made or recommended.

(2) In the case of concurrent resolutions substituted for House concurrent resolutions, "Senate Substitute for House Concurrent Resolution No. _____," and the blank shall be filled with the number of the concurrent resolution for which substitution is made or recommended.

Rule 72. General Rule Not to Read Amendments. Amendments to bills or resolutions shall not require readings as for bills introduced or resolutions introduced, except as otherwise provided in Rule 73 (subject matter of bill or resolution materially changed by senate amendment) or 74 (subject matter of senate bill or resolution materially changed by house amendment).

Rule 73. Subject Change by Senate. Whenever an amendment adopted by the Senate has materially changed the subject of a bill or resolution, the title of the bill or resolution so amended shall be read in the manner prescribed for the introduction of bills or resolutions, and take its place upon the Calendar under the order of business Final Action.

Rule 74. Subject Change by House. Whenever the House adopts amendments to a Senate bill or senate concurrent resolution which materially changes its subject, upon return of such bill or resolution to the Senate, the title of such bill or resolution shall be read in the manner prescribed for the introduction of bills or resolutions and such bill or resolution shall be referred as provided in Rule 32 (reference of bills and resolutions).

Rule 75. Determination of When Subject of Bill or Resolution Materially Changed. The President may determine when a bill or resolution is subject to Rule 73 (subject matter of bill or resolution materially changed by senate amendment) or 74 (subject matter of senate bill or senate concurrent resolution materially changed by house amendment).

Rule 76. Executive Reorganization Orders. When an executive reorganization order is received from the Governor, it shall be referred to an appropriate committee by the President. The committee to which an executive reorganization order is referred shall report its recommendations thereon, by recommending adoption of a Senate resolution, not later than the 60th calendar day of any regular session and not later than 30 calendar days after it has received such referral whichever occurs first. If a committee fails to report upon an executive reorganization order within the time specified in this rule, such committee shall be deemed to have returned the same to the Senate without recommendation. When a report or return of an executive reorganization is made, it and all resolutions for approval or disapproval thereof shall be made the special order of business in accordance with Rule 6 (special order of business) at a time not later than the last day the executive reorganization order may be disapproved under section 6 of article 1 of the Constitution of Kansas. The Senate shall act to approve or reject every reorganization order unless at the time set for such action the House of Representatives shall have already rejected such executive reorganization order.

Rule 77. Censure or Expulsion. Whenever three or more Senators desire to lodge a complaint against any other Senator requesting that the Senator be censured or expelled for misconduct, the complaining Senators shall sign and file a written statement of such complaint with the Secretary of the Senate. In such event, the President shall appoint a select committee for consideration thereof composed of five Senators, no more than three of whom shall be members of the same political party, and none of whom shall have signed the complaint to be considered. The select committee may dismiss the complaint after inquiry or may set the matter for hearing. Reasonable notice and an opportunity to appear

shall be afforded the Senator against whom a complaint has been filed. Select committees meeting under authority of this section shall be authorized to meet and exercise compulsory process without further authorization, subject only to the limitations and conditions prescribed in article 10 of chapter 46 of Kansas Statutes Annotated. Upon completing its hearing and deliberations thereon the select committee may dismiss the complaint or may submit a recommendation to the full Senate for censure or expulsion, and upon receiving such report the Senate may without further hearing or investigation censure or expel the member against whom the complaint was filed. Censure or expulsion of a Senator under this rule shall require a $\frac{3}{4}$ majority vote of those members elected (or appointed) and qualified.

Rule 78. Taking from the Table. The affirmative vote of a $\frac{3}{2}$ majority of all Senators then elected (or appointed) and qualified shall be required for the adoption of a motion to take any question or proposition from the table after the adoption of a motion to table or lay such question or proposition on the table. The provisions of this rule shall apply to motions both in standing committees and the Senate.

Rule 79. Placing Material on Members' Desks. No items or material shall be placed upon the desk of any member of the Senate unless any such item or material bears the signature or name of the Senator responsible for its distribution. This Rule 79 shall not apply to items or material provided by legislative staff, the Governor or state agencies.

Rule 80. Decorum. During the time the Senate is in session professional dress is required on the floor of the Senate.

MESSAGE FROM THE HOUSE

Announcing adoption of **HR 6001**, a resolution relating to the organization of the House of Representatives:

Be it resolved by the House of Representatives of the State of Kansas:

That the chief clerk of the House of Representatives notify the Senate that the House is organized with the following officers:

Mike O'Neal, Speaker

Arlen Siegfreid, Speaker pro tem

Ray Merrick, Majority Leader

Paul Davis, Minority Leader

Susan Kannarr, Chief Clerk

Wayne Owen, Sergeant-at-Arms, and awaits the pleasure of the Senate.

Also, announcing adoption of **HCR 5001**, a concurrent resolution relating to a committee to inform the Governor that the two houses of the legislation are duly organized and ready to receive communications, and the appointment of Representatives Carl Holmes, Pottorff, and Loganbill as members of the committee to wait upon the Governor.

MESSAGE FROM THE HOUSE

Announcing passage of **HCR 5002**, a concurrent resolution providing for a joint session of the Senate and House of Representatives for the purpose of hearing a message from the Governor, and the appointment of Representatives Holmes, Pottorff and Winn to escort the Governor; Representatives Neufeld, Hayzlett and Sawyer to escort the Lieutenant Governor; Representatives Kinzer, Colloton and Peterson to escort the Supreme Court and Representatives Myers, Vickrey and Carlin to escort the Senators.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 5001, A concurrent resolution relating to a committee to wait upon the Governor and advise her the 2009 session of the legislature is organized and ready to receive communications, was introduced and read by title.

On motion of Senator D. Schmidt, an emergency was declared, the rules suspended and **HCR 5001**, was adopted by voice vote.

In compliance with **HCR 5001**, President Morris appointed Senators Brownlee and Holland to wait upon the Governor.

HCR 5002, a concurrent resolution providing for a joint session of the Senate and House of Representatives for the purpose of hearing a message from the Governor was introduced and read by title.

On motion of Senator D. Schmidt, an emergency was declared, the rules suspended and **HCR 5002** was adopted by voice vote.

In compliance with **HCR 5002**, President Morris appointed Senators Taddiken and Faust-Goudeau to escort the Governor; Senators Huelskamp and Kultala to escort the Lieutenant Governor; and Senators Donovan and Haley to escort the Supreme Court.

The President announced the Senate would recess until 6:15 p.m., for the purpose of a joint meeting with the House of Representatives to hear the State of State Address by Governor Kathleen Sebelius.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, January 13, 2009.

Journal of the Senate

SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS Tuesday, January 13, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-nine senators present. Senator Taddiken was excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

In the garden of Gethsemane Your only begotten Son Prayed "Not my will, But thine be done."

So when we pray for anything, It seems that everyone Should pray "Not my will But thine be done."

When we introduce a bill, Before the process has begun, We should pray, "Not my will, But thine be done."

You have a way, O God, Of blessing anyone Who always prays, "Not my will, But only thine be done."

Help us to remember, Lord, That there are really none Who can say we've learned to pray, Until we pray, "Thy will be done."

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCED

President Morris introduced Carl Merril Lovendahl, Doorkeeper, and Rose Marie Glatt and Shirley Lamott, Journal Clerks.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 20, An act concerning school districts; relating to capital improvements; state aid; amending K.S.A. 2008 Supp. 75-2319 and repealing the existing section, by Committee on Ways and Means.

SB 21, An act concerning school districts; relating to financing the costs of utility services and insurance, by Committee on Ways and Means.

SB 22, An act concerning school districts; relating to the issuance of no-fund warrants, by Committee on Ways and Means.

SB 23, An act making and concerning appropriations for the fiscal years ending June 30, 2009, and June 30, 2010, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2008 Supp. 55-193, 79-2978 and 79-2979 and repealing the existing sections, by Committee on Ways and Means

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were referred to Committees as indicated:

Committee of the Whole: **SCR 1601; SR 1803**. Education: **SB 7, SB 9, SB 10, SB 11**. Ethics and Elections: **SB 2**. Federal and State Affairs: **SB 1, SB 3, SB 13**. Financial Institutions & Insurance: **SB 12**. Judiciary: **SB 6, SB 8, SB 14, SB 15, SB 17, SB 18, SB 19**. Public Health and Welfare: **SB 16**. Transportation: **SB 4, SB 5**.

CHANGE OF REFERENCE

The President withdrew **SB 8** from the Committee on Judiciary, and referred the bill to the Committee on Ways and Means.

MESSAGE FROM THE GOVERNOR

December 23, 2008

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Directive No. 08-394 for your information.

Kathleen Sebelius Governor

The President announced Executive Directive No. 08-394, Authorizing Expenditure of Federal Funds as recommended by the President of the Kansas Board of Regents, is on file in the office of the Secretary of the Senate and is available for review by members of the Legislature at any time.

January 12, 2009

Enclosed herewith is a communication pursuant to K.S.A. 22-3703, a report of the only pardon granted by me for the preceding year.

Benito Carrillo, Jr. II Convicted in 1999 of Driving Under the Influence Sentenced to probation for the term of one year which was successfully completed For employment purposes with Aerosystems only

> KATHLEEN SEBELIUS Governor

COMMUNICATIONS FROM STATE OFFICERS

KANSAS STATE BOARD OF HEALING ARTS

September 2, 2008

Vinton K. Arnett, Chair, Kansas State Board of Healing Arts, appointed on behalf of the board John D. "Jack" Confer Acting Executive Director at a meeting of the Board June 20, 2008 effective July 14, 2008, to serve at the will and pleasure of the Board subject to the confirmation of the Kansas Senate.

JOURNAL OF THE SENATE

KANSAS DEPARTMENT OF CORRECTIONS

January 2, 2009

Pursuant to provisions of KSA 75-52,112, Roger Werholtz, Secretary, Kansas Department of Corrections, submitted a report detailing the progress of the Kansas Community Corrections Statewide Risk Reduction Initiative and the progress of the individual community corrections programs.

POOLED MONEY INVESTMENT BOARD

January 5, 2009

In compliance with KSA 75-4222(h), Elizabeth B. A. Miller, Director of Investments, submitted the Annual Report of the Pooled Money Investment Board for Fiscal Year 2008.

KANSAS WATER OFFICE

January 7, 2009

Tracy Streeter submitted KWO 2009 annual report.

KANSAS DEPARTMENT OF WILDLIFE AND PARKS

January 12, 2009

The annual report of the Kansas Department of Wildlife and Parks was submitted by J. Michael Hayden, Secretary, in accordance with KSA 32-844 and 32-845.

KANSAS CORPORATION COMMISSION

January 12, 2009

Doug Louis, Director, Conservation Division of the Kansas Corporation Commission, submitted the Conservation Division Abandoned Oil and Gas Well Remediation Site Status Report.

KANSAS, INC.

Gene Argo, Co-Chair, Kansas, Inc., submitted the 2008 Annual Report.

KANSAS SENTENCING COMMISSION

January 12, 2009

Helen Pedigo, Executive Director, Kansas Sentencing Commission, submitted the 2009 Report to the Legislature.

The President announced the above reports are on file in the office of the Secretary of the Senate and are available for review at any time.

REPORTS OF STANDING COMMITTEES

Committee on **Confirmation Oversight** begs leave to submit the following report: The following appointments were referred to and considered by the committee and your

committee recommends that the Senate approve and consent to such appointments: By the Governor:

Central Low-Level Radioactive Waste Commission: K.S.A. 2008 Supp. 65-34a02 Shari Feist Albrecht, member, serves at the pleasure of the Governor

John William Mitchell, alternate member, serves at the pleasure of the Governor

Kansas Agricultural Remediation Board: K.S.A. 2008 Supp. 2-3709

Larry S. Shivers, term expires March 15, 2012

Kansas Bioscience Authority: K.S.A. 2008 Supp. 74-99b04

Sandra Airene Lawrence, term expires March 15, 2012

John W. Carlin, term expires March 15, 2012

Kansas Court of Tax Appeals, Chief Hearing Officer: K.S.A. 2008 Supp. 74-2433 Trevor Wohlford, term expires July 1, 2012

Kansas Electric Transmission Authority: K.S.A. 2008 Supp. 74-99d03 Leslie W. Evans, term expires March 15, 2012

Kansas Human Rights Commission: K.S.A. 44-1003 Terry Lee Crowder, term expires January 15, 2011 Kansas Inc.: K.S.A. 2008 Supp. 74-8001 Patricia Bossert, term expires January 15, 2012 John A. Pilla, term expires January 15, 2012 Kansas National Guard, Brigadier General: K.S.A. 2008 Supp. 48-208 Col. Norman E. Steen, serves at the pleasure of the Governor Kansas Technology Enterprise Corporation: K.S.A. 2008 Supp. 74-8101 Dr. Bruce D. Dallman, term expires January 15, 2012 Pooled Money Investment Board: K.S.A. 75-4221a Norman B. Dawson, term expires March 15, 2012 J. Thomas Thull, term expires March 15, 2012 Public Employee Relations Board: K.S.A. 2008 Supp. 75-4323 Kenneth W. Gorman, term expires March 15, 2011 State Banking Board: K.S.A. 74-3004 Michael R. Downing, term expires March 15, 2011 Winton A. Winter, Jr., term expires March 15, 2011 Melvin G. Minor, term expires March 15, 2011 State Board of Indigents' Defense Services: K.S.A. 22-4519 Lawrence P. Daniels, term expires January 15, 2009 John R. Weber, term expires January 15, 2010 State Civil Service Board: K.S.A. 75-2929a Correne K. Green, term expires March 15, 2010 Robert B. VanCleave, term expires March 15, 2010 University of Kansas Hospital Authority: K.S.A. 2008 Supp. 76-3304 Gregory Michael Graves, term expires March 15, 2011 Robert W. Honse, term expires March 15, 2010 Sharon Lindenbaum, term expires March 15, 2011 By the Board of Healing Arts: Kansas Board of Healing Arts, Executive Director: K.S.A. 2008 Supp. 65-2878

John Douglas (Jack) Confer, serves at the pleasure of the Board of Healing Arts

COMMITTEE OF THE WHOLE

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

On motion of Senator Emler the following report was adopted: Recommended **SCR 1601** be adopted. Recommended **SR 1803** be adopted.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and **SCR 1601**, **SR 1803** were advanced to Final Action and roll call.

SCR 1601, A concurrent resolution adopting Joint Rules for the Senate and House of Representatives for the 2009-2010 biennium.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Taddiken.

The resolution was adopted.

SR 1803, A resolution adopting rules for the Senate of the State of Kansas for the terms of the Senators commencing with the 2009 regular session of the Legislature.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Taddiken.

The resolution was adopted.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, January 14, 2009.

THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, January 14, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-nine senators present. Senator Wysong was excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

We are here today to honor Someone to whom honor is due: You have blessed her, Lord, with talent: A lady whom we know as Sue.

On the legislative staff in eighty-five Is where she made her debut; Rendering outstanding service, This lady whom we know as Sue.

She was promoted in nineteen ninety-six To Chief of Staff and we knew She would continue to excel, This lady whom we know as Sue.

As Chief of Staff for three presidents, She did what few people could do: She adapted to each president's style, This lady whom we know as Sue.

And now she is retiring She's earned some rest, it's true. We pray You'll continue to bless her, Lord, This lady whom we know as Sue.

I pray this prayer in Jesus' Name,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 24, An act repealing the Kansas insurance score act; repealing K.S.A. 2008 Supp. 40-5101, 40-5102, 40-5103, 40-5104, 40-5105, 40-5106, 40-5107, 40-5108, 40-5109, 40-5110, 40-5111, 40-5112, 40-5113 and 40-5114, by Senators Faust-Goudeau, Kelsey and Masterson.

SB 25, An act concerning crimes and punishments; relating to smoking; amending K.S.A. 21-3105, 21-4009, 21-4010, 21-4011, 21-4012 and 65-530 and repealing the existing sections; also repealing K.S.A. 21-4016 and 21-4017, by Committee on Public Health and Welfare.

SB 26, An act concerning crimes, punishment and criminal procedure; relating to drug offenses; possession of a firearm; sentencing; amending K.S.A. 2008 Supp. 21-4705 and repealing the existing section, by Committee on Judiciary.

SB 27, An act concerning paternity; amending K.S.A. 38-1114 and repealing the existing section, by Committee on Judiciary.

SB 28, An act concerning traffic; relating to the transportation of controlled substances; amending K.S.A. 2008 Supp. 8-1599 and repealing the existing section, by Committee on Judiciary.

SB 29, An act concerning the state board of technical professions; relating to licensure; amending K.S.A. 74-7003, 74-7009, 74-7013, 74-7018, 74-7021, 74-7022, 74-7023, 74-7025, 74-7026, 74-7029, 74-7031, 74-7034, 74-7036 and 74-7041 and repealing the existing sections; also repealing K.S.A. 74-7043, 74-7043, 74-7044 and 74-7045, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committee as indicated:

Ways and Means: SB 20, SB 21, SB 22, SB 23.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Morris, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, and Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1804-

A RESOLUTION congratulating and thanking Sue Krische.

WHEREAS, Sue Krische has provided the Kansas Legislature with years of service, including her unprecedented tenure as Chief of Staff to three Senate Presidents over the course of 12 years; and

WHEREAS, Sue Krische was born in Topeka, Kansas. She attended Catholic schools and graduated from Hayden High School prior to attending St. Mary's College in Leavenworth, Kansas for two years before graduating with a bachelor's degree in English from Washburn University, Topeka, Kansas; and

WHEREAS, Sue Krische married Larry Krische in 1965, and they lovingly welcomed and raised their three sons: John and his younger twin brothers Matt and Dan. As their sons were growing up, the family followed Larry in his employment with Santa Fe to Chicago, Illinois and San Bernardino, California before ultimately coming back to Topeka in 1971; and

WHEREAS, When her sons were older and in school, Sue Krische began her work for the Kansas Legislature in 1985, serving as a session secretary for Rep. Bill Bunten and as Committee Secretary for House Appropriations under Rep. Bunten from 1987 to 1991 before becoming Administrative Assistant on House Appropriations for Rep. George Teagarden in 1992; and

WHEREAS, Sue Krische made the leap to the Senate in 1993, serving as session secretary to Senate Vice President and chairman of the Senate Judiciary Committee Jerry Moran before later that year moving up the back steps and becoming the full-time Executive Secretary to Senate President Bud Burke; and

WHEREAS, Upon Senator Dick Bond's ascent to the office of Senate President in 1997, he tapped Sue Krische to serve as his Chief of Staff. Sue Krische continued in her role as Chief of Staff when Senate President Dave Kerr assumed the office in 2001 and when Senate President Stephen R. Morris did so in 2005. Sue Krische's intelligence, loyalty and discretion were the hallmarks of her service to all three Senate Presidents during her 12 years as Chief of Staff; and WHEREAS, Sue Krische's 12-year tenure as the senior staff to the Senate President is unprecedented. Her appointment and reappointment to this key role significantly altered the scope and definition of the position; and

WHEREAS, Sue Krische has been a tremendous asset to the Kansas Legislature throughout her years of service which have been marked by her well known unflappable calm, lowprofile approach, unfailing attention to detail and iron determination. Sue Krische's dedicated service to each Senate President has left an indelible mark on the office of Chief of Staff and her integrity and fairness will long be standards by which other "chiefs" will be measured: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and thank Sue Krische for the years of devoted service she gave to the State of Kansas and for the legacy of excellence she leaves after her many years as Chief of Staff to the office of Senate President; and

Be it further resolved: That we express heartfelt gratitude to Sue Krische for her tireless efforts on behalf of the Kansas Legislature and to wish for her a happy, healthy and eventful retirement. We also thank her family: husband Larry Krische, their eldest son John, his wife Lisa and their baby boy Ben; their twin sons Matt and Dan, with Dan's wife Amanda, their twin daughters Ellen and Julia and baby boy Sam. May you all enjoy many good times together in the years to come.

On emergency motion of Senator Morris SR 1804 was adopted unanimously.

REMARKS BY SENATOR MORRIS

The Congressional Medal of Honor is the highest award for *valor in action* which can be bestowed upon an individual serving in the Armed Services of the United States. It is generally presented **by** the <u>President</u>, in the *name* of <u>Congress</u>.

If the Kansas Legislature had such an honor, it most certainly would be bestowed upon Sue Krische. For valor in action.

I am not the only Senate President to benefit from having Sue Krische as a "wing man". Not only did Sue serve as Chief of Staff for an *unprecedented* <u>three consecutive Senate</u> <u>Presidents</u>, but she was the executive secretary for a <u>fourth</u> Senate President, a committee secretary for a Senate Vice President and served as a committee secretary and administrative assistant to two House Appropriations Chairmen.

I believe some of these distinguished former legislative leaders are here in the chamber today for this special recognition for Sue. To former Senate Presidents Bud Burke, Dick Bond and Dave Kerr, to former Senate Vice President, now *Congressman* Jerry Moran, and to former House Appropriations Chairmen Bill Bunten and George Teagarden, let's give a nice round of applause.

Back to you, Sue. It is hard to put into words how much I appreciate all you did for me for the past four years. It is hard to know how to thank you for all you have done through your many years of service to the Senate and to the Legislature. I was thinking back last night, and I cannot begin to count the number of primary campaigns, general election campaigns, the sheer number of candidates—both those who were elected and those who were not. The amount of money you helped raise. The events you helped coordinate. The votes you helped round up and count. The late night phone calls. The early morning meetings. The travel. The good times. The hard times. The times when the Kansas Senate seemed like the only thing in the world that mattered—and the times when the Kansas Senate seemed insignificant compared to life outside the dome.

Through all the good and bad, you remained the consummate professional. When everything else seemed uncertain, your loyalty, credibility and discretion were steadfast. You never sought the limelight, never expected the credit. Your quiet but effective style kept our staff together, and left us Presidents to focus on our jobs.

Thank you, Sue, for your wisdom and your expertise. Thank you for your willingness to do whatever the job required.

You have been an advisor, a confidante and a friend. I will miss you on my staff, but I look forward to remaining friends. I wish you the very best always, and I know the entire Senate joins me in saying farewell, good luck and God Bless.

President Morris introduced members of Sue's family: her husband, Larry Krishe; her twin sons, Matt and Dan with Dan's wife Amanda and their children, twin girls Julia and Ellen, and son Sam and Sue's brother-in-law, Father Vince Krische. Her oldest son, John with his wife Lisa and their son Ben were unable to attend.

In closing President Morris asked the family to take good care of Sue and thanked them for sharing her all these years.

Senators Hensley, Reitz and Vratil also paid tribute to Sue.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, January 15, 2009.

FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, January 15, 2009—2:30 p.m.

The Senate was called to order by Vice President John Vratil. The roll was called with thirty-four senators present. Senators Brungardt, Holland, Lynn, Morris, Pyle and Reitz were excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I want to ask a blessing on The new Senators who number ten. Three of them are women, Seven of them are men.

Tim Owens and Jeff Colyer Are both from Overland Park. Use them as only You can To strike a positive spark.

Holland, Abrams, and Kultala Come from different cities: Kansas, Baldwin, and Arkansas; May they shine in their committees.

Ty Masterson's from Andover, Bob Marshall's from Fort Scott, Dick Kelsey is from Goddard. Help them contribute a lot.

Faust-Goudeau is from Wichita, Pilcher-Cook is from Shawnee. Bless both of them as they serve, And may all of them pray for me!

I ask this in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

POINT OF PERSONAL PRIVILEGE

Senator Haley rose on a Point of Personal Privilege to give the following remarks:

MR. VICE PRESIDENT; GENTLE COLLEAGUES:

Let me thank each of you (especially the newest members of this body) for allowing me this annual plea without objection. After fifteen years now in this Legislature of commemorating the King holiday (and the weekend that will precede it), frankly, I am joyfully aware that some of us here are ALREADY in step with the concepts of Equality . . ." with Liberty and Justice for ALL. But then, there too, after all of these years, a decade and a half, sadly,

I realize that many of you all never, perhaps ever, will . . . And so sadly, after *fifteen* years of raising this Point, I realize that some here within the leadership of Kansas, will never be leaders, in your own Districts . . . in your own communities for that matter, for sharing the importance of this Holiday with your families and constituents. The Dr. King Birthday holiday truly epitomizes America's strength, which we as a productive country have, because of such rich diversity. You know, there are many holidays all over the world. Some (like Christmas and New Year's, etc.) shared with people of other countries and even other lands; some different but shared in their own way (like Independence or Labor Days, etc.) in other countries . . . but the uniqueness of this Holiday belongs *strictly* to the United States of America; it doesn't belong to my religion nor to yours; it doesn't belong to my political persuasion and it doesn't belong to yours, the King Holiday is red AND it's blue AND it's purple; it belongs to you, it belongs to me and to ALL of us UNIQUELY . . . as Americans. And once again I'm simply here to plead with each of you, as colleagues and as leading Kansans to claim with special pride Ownership of this Holiday and promote cultural awareness and inclusion throughout our borders. Give it your energy, CIVIC SERVICE energy. That force you exert, redoubling in your neighbor, will expand exponentially. Now, that's the greatest of all potential renewable energy sources! And you know last year, 2008, was a renewal year, Mr. Vice-President.

Personally, I have never really been more proud of this country.

The world watched our American democracy debate with issue after issue on CONTENT and NOT (well at least not to a large extent) on color or gender or age or race. Almost by chance (many would contend by necessity), Americans put a lot of "-isms" to rest; at least for awhile last year during our presidential election.

Where fear had divided, hope instead united and Americans judged the messages and not just the messengers, no matter their age or gender or race.

But despite this broadening in our national psyche, despite an unprecedented outcome in any previous presidential race, you know Mr. Vice-President that there is so much left to accomplish. To keep the spirit of the Rev. Dr. Martin Luther King, Jr. Holiday alive and well this weekend should not be another "day off", but a "day on." Your leadership, no <u>our</u> leadership is required across our State in each of our cities and villages to remind our constituents, our neighbors and our friends that the legacy of Dr. King is the legacy of a united America. This holiday, which bears but one man's name, was accomplished by so many many people; who sacrificed and labored; time and resources and even reputation for the creed that is uniquely America. That we are all endowed by our Creator with inalienable rights; rights such as Liberty, Freedom and Justice . . . without partiality to one's color or one's creed. As the elected stewards of our great State, I pray that we exert our abilities to do our best to insure that in this, our time, and in this our place . . . that with God's grace . . . that we too can make a difference. Please. Have a reflective and active King Holiday.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 30, An act concerning surplus property of the state; amending K.S.A. 2008 Supp. 75-6606 and repealing the existing section, by Committee on Ways and Means.

SB 31, An act concerning behavioral sciences; relating to continuing education requirements; amending K.S.A. 2008 Supp. 65-6313 and repealing the existing section, by Committee on Public Health and Welfare.

SB 32, An act concerning evidence in civil actions; expression of apology, sympathy, compassion or benevolent acts by health care providers not admissible as evidence of an admission of liability or as evidence of an admission against interest, by Committee on Public Health and Welfare.

SB 33, An act concerning the board of pharmacy; relating to fingerprinting and criminal history record checks; regulating pharmacy technicians; term and membership of the board; amending K.S.A. 74-1603 and 74-1604 and K.S.A. 2008 Supp. 65-1663 and repealing the existing sections, by Committee on Public Health and Welfare.

SB 34, An act concerning open records; relating to the exceptions to disclosure; amending K.S.A. 2008 Supp. 45-229 and repealing the existing section; also repealing K.S.A. 2008 Supp. 45-229c, by Special Committee on Judiciary.

SB 35, An act concerning municipal bonds; interest rates; amending K.S.A. 2008 Supp. 10-1009 and repealing the existing section, by Committee on Commerce.

SB 36, An act concerning cities and counties; relating to the transportation development district act; special assessments; amending K.S.A. 2008 Supp. 12-17,143, 12-17,145 and 12-17,148 and repealing the existing sections, by Committee on Commerce.

SB 37, An act regulating traffic; concerning golf carts; amending K.S.A. 2008 Supp. 8-126, 8-128, 8-1486 and 8-2118 and repealing the existing sections, by Senator Lee.

SB 38, An act concerning hospital districts; relating to the formation of a hospital district in Linn county, by Committee on Ethics and Elections.

SB 39, An act concerning certain municipalities; relating to the investment of public moneys; amending K.S.A. 2008 Supp. 12-1677b and repealing the existing section, by Committee on Education.

SB 40, An act repealing K.S.A. 2008 Supp. 72-9910 and 72-9911; relating to the at-risk education council, by Committee on Education.

SB 41, An act repealing K.S.A. 72-67,106, 72-8149, 72-8155, 72-8155a, 72-8155b and 72-8155c; relating to certain school districts and the powers and duties thereof, by Committee on Education.

SB 42, An act concerning elections; relating to the arrangement of certain offices on ballots; amending K.S.A. 2008 Supp. 25-611 and repealing the existing section, by Committee on Education.

SB 43, An act concerning elections; relating to campaign finance; amending K.S.A. 25-4153 and repealing the existing section, by Committee on Education.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Federal and State Affairs: **SB 29**. Financial Institutions & Insurance: **SB 24**. Judiciary: **SB 26**, **SB 27**, **SB 28**. Public Health and Welfare: **SB 25**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS ADJUTANT GENERAL'S DEPARTMENT

Tod M. Bunting, Major General, Kansas National Guard, The Adjutant General, submitted the 2008 Annual Report for the Kansas Adjutant General's Department.

KANSAS CORPORATION COMMISSION

January 7, 2009

As directed by the 2008 Legislature in **SB 570**, Section 6(a), Commissioners Thomas E. Wright, Chairman; Michael C. Moffet and Joe F. Harkins, submitted a report to the Legislature concerning the availability of Broadband services in the State of Kansas.

KANSAS ELECTRIC TRANSMISSION AUTHORITY

January 12, 2009

Representative Carl Dean Holmes, Chairperson, submitted a report of the KETA's third full year of activities.

KANSAS DEVELOPMENT FINANCE AUTHORITY

January 13, 2009

On behalf of the Kansas Development Finance Authority, Stephen R. Weatherford, submitted the audited Annual Report for the fiscal year ended June 30, 2008.

The Vice President announced the above reports are on file in the office of the Secretary of the Senate and are available for review at any time.

REPORT ON ENROLLED BILLS

SR 1801, SR 1802, SR 1803, SR 1804 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on January 15, 2009.

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, January 16, 2009.

FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Friday, January 16, 2009-8:00 a.m.

The Senate was called to order by Vice President John Vratil. The roll was called with thirty senators present. Senators Barnett, Brownlee, Bruce, Brungardt, Colyer, Haley, Masterson, Morris, Pyle and Wagle were excused. Invocation by Chaplain Fred S. Hollomon: Heavenly Father, His name was Martin Luther King, Jr. He was born and lived in a land of racial prejudice. I know, because I lived there too. He followed his father into the gospel ministry. Like the rest of us, he was not perfect.

But he had a dream.

I believe that dream came from You, O God.

His roots as a Baptist preacher served him well.

He knew it was not Your will for one race to ostracize another.

What made him different was his weapon.

He did not come with a gun.

He refused to resort to violence

His weapon was passive resistance.

And to the surprise of his opposition he won.

The war was not won, but a strategic battle prevailed.

Today, people of all colors drink from the same fountain.

Today, people of all colors use the same rest rooms.

Today, people of all colors eat at the same restaurants

Today, people of all colors sit together on buses.

Today, people of all colors sit together in church.

No, prejudice has not been obliterated.

But the dream of one black Baptist preacher is slowly coming true.

The old song, "We Shall Overcome" marches on.

And I believe if Martin Luther King, Jr. was alive today, he would join me in proclaiming, "Glory to God in the highest, and on earth, peace, among people with whom He is pleased."

I pray this in the name of Jesus Christ.

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 44, An act concerning civil actions and civil penalties; relating to the submission of false or fraudulent claims to or the performance of fraudulent acts upon the state or a political subdivision thereof, by Committee on Judiciary.

SB 45, An act concerning the Kansas power of attorney act; amending K.S.A. 58-652, 58-656 and 58-657 and repealing the existing sections, by Committee on Judiciary.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: SB 35, SB 36. Education: SB 40, SB 41. Ethics and Elections: SB 38, SB 42, SB 43 Financial Institutions & Insurance: SB 39. Judiciary: SB 34. Public Health and Welfare: SB 31, SB 32, SB 33. Transportation: SB 37. Ways and Means: SB 30.

COMMUNICATIONS FROM STATE OFFICERS

TREASURER'S OFFICE STATE OF KANSAS

January 15, 2009

As required by KSA 75-650, Dennis McKinney, State Treasurer, submitted a report assessing the three year pilot period for the Kansas Investments Developing Scholars Matching Grant Program.

The Vice President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, January 20, 2009.

SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Tuesday, January 20, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-nine senators present. Senator Bruce was excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

An event has taken place Which has no precedent. An African-American Is now our President.

It's a milestone for our country, For sixty years ago There were many places African-Americans couldn't go.

Regardless of whom we voted for As the President of our nation, We should all be thankful For progress in race relations.

Much credit must be given To Martin Luther King Who lived and died while striving To "Let Freedom Ring."

But we never should forget He was a gospel preacher Who learned from You, O God, The freedom of human creatures.

So thank You for ordaining That any citizen You create, Could some day be elected President of the United States!

I pray this in the Name of Jesus,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 46, An act concerning port authorities; relating to sale of certain real or personal property; amending K.S.A. 12-3412 and repealing the existing section, by Committee on Transportation.

SB⁻47, An act concerning utilities; relating to telecommunications; concerning local exchange carriers satisfaction of carrier of last resort obligations; amending K.S.A. 2008 Supp. 66-2009 and repealing the existing section, by Committee on Utilities.

SB 48, An act concerning telecommunications; relating to enhanced wireless 911 service; concerning certain fees and disposition thereof; relating to audits of certain systems; definitions; amending K.S.A. 12-5301 and 12-5304 and K.S.A. 2008 Supp. 12-5322, 12-5323, 12-5332, 12-5334, 12-5338, 12-5358 and 12-5361 and repealing the existing sections, by Committee on Utilities.

SB 49, An act relating to insurance; concerning mental health and alcoholism, drug abuse or other substance use disorder benefits; amending K.S.A. 2008 Supp. 40-2,105a and 40-2258 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SB 50, An act concerning insurance; pertaining to risk-based capital requirements; establishing a trend test calculation; amending K.S.A. 40-2c05 and repealing the existing section, by Committee on Financial Institutions and Insurance.

SB 51, An act concerning wildlife and parks; relating to clothing requirements while hunting deer or elk; amending K.S.A. 32-1015 and repealing the existing section, by Committee on Natural Resources.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committee as indicated:

Judiciary: SB 44, SB 45.

CHANGE OF REFERENCE

The President withdrew **SB 32** from the Committee on **Public Health and Welfare**, and referred the bill to the Committee on **Judiciary**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS CORPORATION COMMISSION

January 14, 2009

As directed by the 2008 Legislature in **SR 1832**, Commissioners Thomas E. Wright, Chairman; Michael C. Moffet and Joe F. Harkins submitted a report concerning Pay Stations for Utility Payments in the State of Kansas.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Schodorf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1805-

A RESOLUTION congratulating and commending the members of the 2009 Kansas Teacher of the Year Team.

WHEREAS, The Kansas State Department of Education sponsors the Kansas Teacher of the Year program which identifies, recognizes and utilizes representatives of excellent teaching in the elementary and secondary classrooms of the state. The mission of the program is to build and utilize a network of exemplary teachers who are leaders in the improvement of schools, student performance and the teaching profession; and

WHEREAS, Two Teachers—one elementary and one secondary—in each of the state's four United States congressional districts were selected as finalists for recognition as Kansas Teacher of the Year, the Kansas Teacher of the Year being chosen from among the eight finalists. The Kansas Teacher of the Year is awarded The Hubbard Foundation Kansas Teacher of the Year Ambassadorship which enables the person selected to devote significant time during the second semester to activities to support the mission of the program. The

2009 Kansas Teacher of the Year and finalists were honored at an awards banquet on November 22, 2008. All members received a cash award as well as mementos of the events; and

WHEREAS, The Kansas Teacher of the Year is nominated to represent Kansas in the National Teacher of the Year program, a project of the Council of Chief State School Officers presented by the ING Foundation; and

WHEREAS, The 2009 Kansas Teacher of the Year is Cynthia J. Couchman, Buhler USD 313, and the regional finalists are Mary F. Bradshaw, Newton USD 373, Walter L. Cochran, Gardner Edgerton USD 231, Marilyn B. Fox, Manhattan-Ogden USD 383, Mary Martha Good, El Dorado USD 490, Jennifer Hartman, De Soto USD 232, Julie C. Miller, Paola USD 368 and Cynthia L. Venard, Dodge City USD 443: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the members of the 2009 Kansas Teacher of the Year Team and wish Mrs. Couchman success in the national competition; and

Be it further resolved: That the Secretary of the Senate provide eight enrolled copies of this resolution to the Commissioner of Education for forwarding to the members of the 2009 Kansas Teacher of the Year Team.

On emergency motion of Senator Schodorf SR 1805 was adopted unanimously.

The 2009 Kansas Teacher of the Year and the 2009 Kansas Regional Teachers of the Year were guests and were recognized with a standing ovation.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **SB 14** be amended on page 1, in line 32, by striking "and"; in line 33, by striking "legislature" and inserting "house of representatives"; also in line 33, by striking "legislative coor-"; in line 34, by striking "dinating council" and inserting "speaker of the house of representatives; and

(7) one member of the senate appointed by the president of the senate";

On page 2, in line 3, by striking "the governor,"; and the bill be passed as amended.

Also, **SB 19** be amended on page 2, in line 37, after the comma by inserting "the attorney general,"; in line 39, after the comma by inserting "any assistant attorney general if authorized by the attorney general,";

On page 4, in line 31, after the comma by inserting "the attorney general, or"; in line 35, after the semicolon by inserting "any assistant attorney general if authorized by the attorney general and while actually engaged in the duties of their employment;";

On page 5, in line 32, after the first comma by inserting "the attorney general,"; in line 33, by striking the comma; in line 34, after the comma by inserting "any assistant attorney general if authorized by the attorney general,"; in line 35, by striking the comma; and the bill be passed as amended.

REMARKS BY SENATOR HALEY

Mr. President:

Today, it is with a sense of great anticipation that I (or perhaps any legislator, for that matter) utter the complete title and name of "President Barack Obama" for the *first* time before the Kansas legislature.

(But, I imagine this won't be the only, or last, time I do invoke his name!) Earlier, many of us watched as President Obama took the oath of office and with it the decidedly arduous task of leading this nation out of what any sane person would agree are some difficult times for the United States of America. The mantra for the campaign for the first American of African descent to hold the office was clear: To provide "Change . . . We can believe in" and the resounding response from the majority of voting America was belief in the *genuineness* of the Obama appeal. Without recounting the issues of economy; or conflicts; or dependency here . . . polls suggest most Americans overwhelmingly want to see "change" to policies that have failed. We've got to do differently than we've done before. To meet these challenges, we've got to do better. America has to do better.

Now I know Mr. President that President Obama wasn't voting Kansans choice to bring about change. And I realize too that each of us here are serving by the benefit and at the mercy of those same voters. Many of them (but hopefully not many of you here) for purely partisan (and some worse) reasons don't want to see the Obama administration meet any measure of success.

The President, prophetically, has this to say; "The road ahead will be long. Our climb will be steep. We may not get there in one year or even one term, but America—we as a people will get there. There will be setbacks and false starts. There are many who won't agree with every decision or policy I make as president, and we know that government can't solve every problem. But I will always be honest with you about the challenges we face. I will listen to you, especially when we disagree. And above all, I will ask you join in the work of remaking this nation the only way it's been done in America for 221 years—block by block, brick by brick, calloused hand by calloused hand."

I call on us all to put aside the rancor or partisanship and to pull together for a change this session to restore the greatness that is a solvent compassionate Kansas and a stronger America under the new leadership of this President who has begun to bring about that change this country seeks and many feel that our country in so many ways desperately needs. Kansas does not exist in a vacuum; we are one of many. After all, ultimately we are now drawing closer as one America. Different races, different cultures, different religions, political parties and creeds maybe, but one America . . . United States of America.

"Ich bin America" "Yo soy America" "Je suis America"

"I am America." We are America.

God Bless the 44th President and his administration; great state of Kansas and the United States of America.

Thank you, Mr. President

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, January 21, 2009.

SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, January 21, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

In the going-on twenty-eight sessions I have served as Senate Chaplain I have observed literally hundreds of different Senators. I have often wondered how You, O God, would identify a good Senator.

Searching through Your Word, it is obvious that You consider the most important of all virtues is LOVE.

I have found four Greek words translated "love", but the one You consider most associated with You is the word, AGAPE, which means to desire to do that which benefits another the most. Sometimes it's to comfort, sometimes it's to correct, sometimes it's to help, sometimes it's to encourage.

There are at least eleven times in the New Testament where the superiority of love over all other virtues is expressed.

From time to time I would appreciate Your leading me to point out at least a few of these verses. I cannot do it without You.

By the way, to be fair, I will leave it up to the Senators to evaluate the Chaplains!

I ask this in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 52, An act concerning cities and counties; relating to special benefit districts therein; relating to costs of improvements; amending K.S.A. 2008 Supp. 12-6a19 and repealing the existing section, by Committee on Federal and State Affairs.

SB 53, An act concerning cereal malt beverages; relating to discretion by cities in granting and suspending or revoking a retailer's license; amending K.S.A. 2008 Supp. 41-2703 and 41-2708 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 54, An act concerning a mural in the capitol, by Senators Hensley, Faust-Goudeau and Haley.

SB 55, An act concerning elections; pertaining to official federal services absentee ballots; amending K.S.A. 25-1218 and repealing the existing section, by Committee on Ways and Means.

SB 56, An act concerning elections; pertaining to advance voting ballots; amending K.S.A. 2008 Supp. 25-1124 and 25-1128 and repealing the existing sections, by Committee on Ways and Means.

SB 57, An act concerning campaign finance; pertaining to the electronic filing of certain reports; amending K.S.A. 2008 Supp. 25-4148b, 25-4148c and 25-4148d and repealing the existing sections, by Committee on Ways and Means.

SB 58, An act concerning utilities; relating to the underground utility damage prevention act; definitions; amending K.S.A. 66-1802, as amended by section 5 of chapter 122 of the 2008 Session Laws of Kansas, and repealing the existing section, by Committee on Utilities.

SB 59, An act relating to motor vehicles; concerning the use of safety belts; amending K.S.A. 2008 Supp. 8-2503 and 8-2504 and repealing the existing sections, by Committee on Transportation.

SB 60, An act concerning counties; relating to the sale of real property; relating to redevelopment districts within a federal enclave; amending K.S.A. 19-211 and repealing the existing section, by Committee on Transportation.

SB 61, An act concerning the department of corrections; relating to the prison-made goods act; providing additional authorization to contract for certain work projects; amending K.S.A. 2008 Supp. 75-5275 and repealing the existing section, by Committee on Judiciary.

SB 62, An act concerning the department of health and environment; relating to tuberculosis evaluation requirements and prevention and control plan for postsecondary educational institutions; rules and regulations; amending K.S.A. 2008 Supp. 65-129e and repealing the existing section, by Committee on Public Health and Welfare.

SB 63, An act concerning the Kansas board of healing arts; relating to licensure and education of polysomnographic technologists, technicians and students; establishing the polysomnography professional standards council, by Committee on Public Health and Welfare.

SB 64, An act concerning the Kansas water appropriation act; amending K.S.A. 82a-705 and 82a-707 and K.S.A. 2008 Supp. 82a-701 and repealing the existing sections, by Special Committee on Eminent Domain in Condemnation of Water Rights.

SB 65, An act concerning eminent domain; relating to water rights; amending K.S.A. 19-3552, 24-1209 and 76-147 and K.S.A. 2008 Supp. 82a-1028 and repealing the existing sections, by Special Committee on Eminent Domain in Condemnation of Water Rights.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated: Financial Institutions & Insurance: **SB 49, SB 50**.

Natural Resources: **SB 51**. Transportation: **SB 46**.

Utilities: SB 47, SB 48.

REPORTS OF STANDING COMMITTEES

Committee on Ways and Means recommends SB 8 be passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, January 22, 2009.

EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, January 22, 2009—2:30 p.m.

The Senate was called to order by Vice President John Vratil. The roll was called with forty senators present.

Vice President Vratil introduced as guest chaplain, Dr. Robert Meneilly, Pastor Emeritus, Village Presbyterian Church, Prairie Village, KS, who delivered the invocation:

Gracious God of all peoples everywhere, save this moment from being little more than protocol, as we pause to reverence your presence and providence in this sacred hall of government.

Give to these elected and devoted leaders who govern a keen sense of your will and the courage to do it. Keep them ever mindful that they are called to serve all of the citizens of Kansas as the doers of truth and justice. Enable each of these to do her or his work with integrity, intelligence and with a keen sense of personal responsibility. Give each of these the grace to hear one another, and where there is discord of politics or idealism may they respect each other's dignity and be open to reconciliation.

Give to all of us the determination to respect one another even as we would be respected, so help us God.

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 66, An act concerning district courts; relating to change of venue in care and treatment cases for mentally ill persons and care and treatment cases for persons with an alcohol or substance abuse problem; transmittal of documents; amending K.S.A. 59-2971 and 59-29b71 and repealing the existing sections, by Committee on Judiciary.

SB 67, An act concerning crimes and punishment; creating the crime of endangering a dependent adult; relating to mistreatment of a dependent adult; amending K.S.A. 21-3437 and repealing the existing section, by Committee on Judiciary.

SB 68, An act concerning docket fees; relating to the prosecuting attorneys' training fund; amending K.S.A. 20-362 and repealing the existing section, by Committee on Judiciary.

SB 69, An act concerning crime stoppers; establishing an advisory council; imposing certain fees; providing for certain grants; creating the Kansas crime stopper trust fund, by Committee on Judiciary.

SB 70, An act concerning trusts; relating to the uniform principal and income act, by Committee on Judiciary.

SB 71, An act concerning certain elections; amending K.S.A. 25-901 and repealing the existing section, by Committee on Education.

SB 72, An act concerning credit unions; pertaining to membership of a credit union; amending K.S.A. 2008 Supp. 17-2205 and repealing the existing section, by Committee on Financial Institutions and Insurance.

SB 73, An act concerning school districts; relating to school finance; amending K.S.A. 2008 Supp. 72-6433 and repealing the existing section; also repealing K.S.A. 2008 Supp. 72-6433c, by Committee on Ways and Means.

SB 74, An act concerning the cash-basis law; relating to exceptions thereto; amending K.S.A. 2008 Supp. 10-1116a and repealing the existing section, by Committee on Ways and Means.

SB 75, An act concerning governmental consolidation and reorganization; amending K.S.A. 12-3901, 12-3902, 12-3903, 12-3904, 12-3909 and 19-205 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 76, An act concerning alcoholic beverages; amending K.S.A. 41-210, 41-211, 41-304, 41-307, 41-308, 41-601, 41-602, 41-701, 41-708, 41-717, 41-718, 41-724, 41-725, 41-726, 41-729, 41-806, 41-901, 41-905, 41-1001, 41-1002, 41-1004, 41-1101, 41-1102, 41-1122, 41-1123, 41-1125, 41-2604, 41-2610, 41-2614, 41-2632, 41-2637, 41-2641, 41-2642, 41-2643, 41-2705, 41-2706, 41-2707, 41-2709, 41-2722, 41-2726, 79-4101, 79-4102, 79-4103, 79-4104, 79-41a01, 79-41a02, 79-41a02, 79-41a07, and 79-41a08 and K.S.A. 2008 Supp. 41-102, 41-104, 41-209, 41-308b, 41-712, 41-805, 41-2611, 41-2645, 41-2701, 41-2704, 41-2728, 79-3606, 79-4108 and 79-41a03 and repealing the existing sections; also repealing K.S.A. 41-403 and 41-2712 and K.S.A. 2008 Supp. 41-2702, 41-2703, and 41-2708, by Committee on Federal and State Affairs.

SB 77, An act concerning the state use law committee; date for expiration thereof; amending K.S.A. 2008 Supp. 75-3322c and repealing the existing section, by Committee on Commerce.

SB 78, An act concerning transportation development districts; amending K.S.A. 2008 Supp. 12-17,140, 12-17,141, 12-17,143, 12-17,145 and 12-17,148 and repealing the existing sections, by Committee on Commerce.

SB 79, An act concerning elections; pertaining to filing deadlines for candidates; amending K.S.A. 25-205 and 25-4004 and repealing the existing sections, by Committee on Ethics and Elections.

SB 80, An act concerning cities; dealing with certain elections; amending K.S.A. 15-809 and repealing the existing section, by Committee on Ethics and Elections.

SB 81, An act enacting the Kansas nonsmoker protection act; repealing K.S.A. 21-4009, 21-4010, 21-4011, 21-4012, 21-4013 and 21-4014 and repealing the existing sections, by Committee on Public Health and Welfare.

SB 82, An act repealing K.S.A. 2008 Supp. 65-1,214; relating to residential childhood lead poisoning prevention; concerning sunset provision, by Committee on Public Health and Welfare.

SB 83, An act re-establishing the Kansas autism task force; relating to the powers and duties thereof; repealing K.S.A. 2008 Supp. 46-1208d, by Committee on Public Health and Welfare.

SB 84, An act concerning schools; relating to personal financial literacy courses; amending K.S.A. 2008 Supp. 72-7535 and repealing the existing section, by Committee on Education.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Ethics and Elections: **SB 55, SB 56, SB 57**. Federal and State Affairs: **SB 52, SB 53, SB 54**. Judiciary: **SB 61**. Natural Resources: **SB 64, SB 65**. Public Health and Welfare: **SB 62, SB 63**. Transportation: **SB 59, SB 60**. Utilities: **SB 58**.

GUEST

Senator V. Schmidt introduced First Lieutenant Eric Hollingsworth, Commander of the Recruit Sustainment Program and Operations Operator, Kansas National Guard, who was visiting in the Senate.

REPORT ON ENROLLED BILLS

SR 1805 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on January 22, 2009.

COMMITTEE OF THE WHOLE

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

On motion of Senator Schodorf the following report was adopted:

Recommended **SB 8** be passed.

SB 14, SB 19 be amended by adoption of the committee amendments, and the bills be passed as amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and **SB 8, SB 14, SB 19** were advanced to Final Action and roll call.

SB 8, An act concerning the Kansas tort claims act; concerning the definition of terms used therein; amending K.S.A. 2008 Supp. 75-6102 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Colver.

The bill passed.

SB 14, An act concerning the interstate compact for juveniles; relating to the compact administrator; establishing the Kansas council for interstate juvenile supervision.

On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Pyle.

Absent or Not Voting: Colyer.

The bill passed, as amended.

SB 19, An act concerning crimes and punishment; relating to the criminal use of weapons; amending K.S.A. 21-4217 and 21-4218 and K.S.A. 2008 Supp. 21-4201 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Colyer.

The bill passed, as amended.

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, January 23, 2009.

NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Friday, January 23, 2009—8:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with twenty-six senators present. Senators Abrams, Barnett, Bruce, Brungardt, Colyer, Faust-Goudeau, Huelskamp, Masterson, Ostmeyer, Pilcher-Cook, Pyle, Taddiken, Wagle and Wysong were excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Yesterday while driving A sign caught my eye. It was short and so I read it As I passed it by.

"Well done" is better than "Well said" is how it read. Immediately a Bible verse (Matthew 25:21) Appeared within my head.

(And I paraphrase it) "Well done, my faithful servant, You've been faithful with a few. So more responsibility Will now be given you."

I've been a preacher, Lord, For fifty-seven years. Thousands of my words Have bombarded many ears.

But Jesus' commendation Was certainly not "Well said." "Well done" is what I want to hear When I leave this body dead.

I believe that every Senator Would like to hear You say, "Well done, my faithful servant" And for them is what I pray.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 85, An act concerning the secretary of state; relating to return of filings to corporations and limited partnerships; amending K.S.A. 17-6003, 17-7301, 17-7678 and 56-1a156 and repealing the existing sections, by Committee on Judiciary.

SB 86, An act concerning the secretary of state; relating to letters of good standing; amending K.S.A. 17-7506 and repealing the existing section, by Committee on Judiciary.

SB 87, An act concerning public agencies; relating to disclosure of certain records; administrative procedure; judicial review; amending K.S.A. 77-501, 77-503, 77-511, 77-512, 77-513, 77-519, 77-520, 77-521, 77-523, 77-525, 77-528, 77-531, 77-532, 77-534, 77-537, 77-601, 77-612, 77-614, 77-617 and 77-621 and K.S.A. 2008 Supp. 45-221, 77-514, 77-527, 77-529, 77-549, 77-550, 77-551 and 77-603 and repealing the existing sections; also repealing K.S.A. 77-507, 77-507, and 77-605 and K.S.A. 2003 Supp. 77-514, as amended by section 39 of chapter 145 of the 2004 Session Laws of Kansas, and K.S.A. 77-551, as amended by section 43 of chapter 145 of the 2004 Session Laws of Kansas, by Committee on Judiciary.

SB 88, An act concerning children; relating to permanency; priority of certain orders; amending K.S.A. 38-1116, 60-3103 and 60-3107 and K.S.A. 2008 Supp. 38-1121, 38-2201, 38-2202, 38-2203, 38-2208, 38-2212, 38-2242, 38-2243, 38-2251, 38-2255, 38-2258, 38-2264, 38-2272, 38-2279, 38-2304, 38-2305, 38-2344, 38-2357, 38-2364, 38-2365, 38-2373 and 60-1610 and repealing the existing sections, by Committee on Judiciary.

SB 89, An act relating to workers compensation; concerning certain records; amending K.S.A. 2008 Supp. 44-550b and repealing the existing section, by Committee on Financial Institutions and Insurance.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS SUBSTANCE ABUSE POLICY BOARD

January 22, 2009

On behalf of the Kansas Substance Abuse Board (SAPB), Russell Jennings, Chair, submitted a copy of the Board's report.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Monday, January 26, 2009.

TENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Monday, January 26, 2009—2:30 p.m.

The Senate was called to order by Vice President John Vratil. The roll was called with thirty-nine senators present. Senator Wysong was excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Most every time someone discovers I'm Chaplain of the Senate; They have nothing good to say About anybody in it.

So every year I have a chance To speak at the Day of Prayer, I remind them "bad-mouthing never helps, So pray for all of them there."

When it comes to criticism, Years ago I found Most folks assume that others Have the easiest jobs around.

There's an old saying, Lord, Which may express your views: "Don't judge others until you've walked Thirty days in their shoes."

Thirty days in a Senator's shoes Should help the critics realize They don't have many reasons To sit around and criticize.

I pray in Jesus' Name,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 90, An act relating to the insurance department; concerning the electronic filing of certain documents; providing for rules and regulations, by Committee on Ways and Means.

SB 91, An act concerning planning and zoning; dealing with vesting of development rights; amending K.S.A. 12-764 and repealing the existing section, by Committee on Local Government.

SB 92, An act concerning the Kansas code for care of children; relating to jurisdiction; amending K.S.A. 2008 Supp. 38-2203 and repealing the existing section, by Committee on Ways and Means.

SB 93, An act concerning the joint committee on special claims against the state; relating to membership thereof; amending K.S.A. 46-912 and repealing the existing section, by Committee on Ways and Means.

SB 94, An act concerning the Kansas code for care of children; relating to placement of children into custody; amending K.S.A. 2008 Supp. 38-2232, 38-2242, 38-2243 and 38-2255 and repealing the existing sections, by Committee on Ways and Means.

SB 96, An act concerning retirement and pensions; relating to the Kansas public employees retirement act of 2009; providing permanent annual cost-of-living adjustment for certain retirants; member contributions; amending K.S.A. 2008 Supp. 74-49,210 and repealing the existing section, by Joint Committee on Pensions, Investments and Benefits.

SB 97, An act concerning the liquor enforcement tax; relating to violations by retailers; prescribing penalties therefor, by Committee on Assessment and Taxation.

SB 98, An act concerning income taxation; relating to refund claims and adjustments of income; period of limitations; amending K.S.A. 2008 Supp. 79-3230 and repealing the existing section, by Committee on Assessment and Taxation.

SB 99, An act concerning sales taxation; relating to countywide retailers' sales tax in Lyon county; amending K.S.A. 2008 Supp. 12-187 and 12-189 and repealing the existing sections, by Committee on Assessment and Taxation.

SB 100, An act concerning sales taxation; relating to imposition of tax; exemptions; hunting and fishing; amending K.S.A. 2008 Supp. 79-3603 and 79-3606 and repealing the existing sections, by Committee on Assessment and Taxation.

SB 101, An act concerning tanning facilities; regulating minors' use of tanning device, by Committee on Public Health and Welfare.

SB 102, An act concerning emergency medical services; relating to use of automated external defibrillator; amending K.S.A. 2008 Supp. 65-6149a and repealing the existing section, by Committee on Public Health and Welfare.

SB 103, An act concerning elections; relating to certain primary elections; amending K.S.A. 2008 Supp. 25-2021, 25-2108a and 71-1415 and repealing the existing sections, by Committee on Ethics and Elections.

SB 104, An act concerning insurance; providing reimbursement for certain services; amending K.S.A. 2008 Supp. 40-2,103 and 40-19c09 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SB 105, An act enacting the public adjusters licensing act, by Financial Institutions and Insurance.

SB 106, An act concerning cigarette lighters; amending K.S.A. 21-3105 and repealing the existing section, by Committee on Federal and State Affairs.

SB 107, An act concerning bingo games; relating to operation thereof and prizes awarded; amending K.S.A. 2008 Supp. 79-4701, 79-4706 and 79-4717 and repealing the existing sections, by Committee on Federal and State Affairs.

SENATE CONCURRENT RESOLUTION No. 1602-

By Special Committee on Assessment and Taxation

A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the classification and taxation of watercraft.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 1 of article 11 of the constitution of the state of Kansas is hereby amended to read as follows:

"§ 1. System of taxation; classification; exemption. (a) The provisions of this subsection shall govern the assessment and taxation of property on and after January 1, 1993 2011, and each year thereafter. Except as otherwise hereinafter specifically

provided, the legislature shall provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation. The legislature may provide for the classification and the taxation uniformly as to class of recreational vehicles *and watercraft*, as defined by the legislature, or may exempt such class from property taxation and impose taxes upon another basis in lieu thereof. The provisions of this subsection shall not be applicable to the taxation of motor vehicles, except as otherwise hereinafter specifically provided, mineral products, money, mortgages, notes and other evidence of debt and grain. Property shall be classified into the following classes for the purpose of assessment and assessed at the percentage of value prescribed therefor:

Class 1 shall consist of real property. Real property shall be further classified into seven subclasses. Such property shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

	ssed uniformity as to subclass at the following percentages of value:	
(1)	Real property used for residential purposes including multi-family residen-	
	tial real property and real property necessary to accommodate a residential	
	community of mobile or manufactured homes including the real property	
	upon which such homes are located	$11\frac{1}{2}\%$
(2)	Land devoted to agricultural use which shall be valued upon the basis of its	11/2/0
(2)	Land devoted to agricultural use which shall be valued upon the basis of its	
	agricultural income or agricultural productivity pursuant to section 12 of	
	article 11 of the constitution	30%
(3)	Vacant lots	12%
(4)	Real property which is owned and operated by a not-for-profit organization	
(/	not subject to federal income taxation pursuant to section 501 of the federal	
	internal revenue code, and which is included in this subclass by law	12%
()		1270
(5)	Public utility real property, except railroad real property which shall be	
	assessed at the average rate that all other commercial and industrial prop-	
	erty is assessed	33%
(6)	Real property used for commercial and industrial purposes and buildings	
` ´	and other improvements located upon land devoted to agricultural use	25%
(7)	All other urban and rural real property not otherwise specifically subclas-	20,0
(1)		30%
	sified	
C	lass 2 shall consist of tangible personal property. Such tangible personal prop	perty shall
be f	urther classified into six subclasses, shall be defined by law for the purpose o	f subclas-
	ation and assessed uniformly as to subclass at the following percentages of va	
(1)	Mobile homes used for residential purposes	111/2%
	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily	
(1)	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold	
(1)	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold	
(1)	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which	
(1) (2)	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25%	111/2%
(1)	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex-	111/2%
(1) (2)	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall	111/2%
(1) (2)	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property	11½% 30%
(1) (2) (3)	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed	111/2%
(1) (2)	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed	11½% 30%
(1) (2) (3)	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed	11½% 30%
 (1) (2) (3) (4) 	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed	11½% 30% 33%
(1) (2) (3)	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 Commercial and industrial machinery and equipment which, if its economic	11½% 30% 33%
 (1) (2) (3) (4) 	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less	11½% 30% 33%
 (1) (2) (3) (4) 	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less	11½% 30% 33%
 (1) (2) (3) (4) 	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less than seven years, shall be valued at its retail cost when new less than seven years, shall be valued at its retail cost when new less straight-	11½% 30% 33%
 (1) (2) (3) (4) 	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed	11½% 30% 33%
 (1) (2) (3) (4) 	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less stan seven years, shall be valued at its retail cost when new less straight- line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding its economic life and as long as such	11½% 30% 33%
 (1) (2) (3) (4) 	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less stan seven years, shall be valued at its retail cost when new less straight- line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding its economic life and as long as such	11½% 30% 33%
 (1) (2) (3) (4) 	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less stan seven years, shall be valued at its retail cost when new less straight- line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding its economic life and as long as such property is being used, shall not be less than 20% of the retail cost when	11½% 30% 33%
 (1) (2) (3) (4) 	Mobile homes used for residential purposes Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, ex- cept railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less stan seven years, shall be valued at its retail cost when new less straight- line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding its economic life and as long as such	11½% 30% 33% 30%

(b) All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, farm machinery and equipment, merchants' and manufacturers' inventories, other than public utility inventories included in subclass (3) of class 2, livestock, and all household goods and personal effects not used for the production of income, shall be exempted from property taxation."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"Explanatory statement. This amendment would allow the legislature to classify and tax watercraft upon a basis different from other property.

"A vote for this proposition would permit the legislature to provide for separate classification and taxation of watercraft and to exempt such property from property taxation and impose taxes in lieu thereof.

"A vote against this proposition would continue the taxation of watercraft in the same manner as all other property."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives, shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election to be held in August 2010.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: SB 77, SB 78, SB 89. Education: SB 73, SB 84. Ethics and Elections: SB 71, SB 79, SB 80. Federal and State Affairs: SB 75, SB 76. Financial Institutions & Insurance: SB 72. Judiciary: SB 66, SB 67, SB 68, SB 69, SB 70, SB 85, SB 86, SB 87, SB 88. Public Health and Welfare: SB 81, SB 82, SB 83. Ways and Means: SB 74.

CHANGE OF REFERENCE

The Vice President withdrew **SB 89** from the Committee on **Commerce**, and referred the bill to the Committee on **Financial Institutions and Insurance**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS DEPARTMENT OF ADMINISTRATION

January 26, 2009

Kent E. Olson, Director, Division of Accounts and Reports, submitted a CD containing the 55th Annual Financial Report of the State of Kansas for the fiscal year ended June 30, 2008.

The Vice President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Morris, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle and Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1806-

A RESOLUTION honoring and thanking Shirley Higgins.

WHEREAS, Shirley Higgins has served the Kansas Legislature in various positions for well more than 20 years; and

WHEREAS, Shirley Higgins was born in Muskogee, Oklahoma. She attended East Indianola Elementary School in Topeka, Kansas and graduated from Seaman High School before graduating from Washburn University; and

WHEREAS, In 1982, Shirley Higgins' service to Kansas began when she was hired to work as a Senate Commercial and Financial Institutions committee secretary, a position she held for seven years before she worked as a Senate Local Government committee secretary for eight years; and

WHEREAS, Shirley Higgins continued to support the Senate in her work as the Senate Assessment and Taxation committee secretary, a position she held for eight years before working as a Senate Education committee assistant for four years as well working as permanent part-time secretary for the Joint Committee on Special Claims Against the State; and

WHEREAS, Shirley Higgins has been a tremendous asset to the Kansas Legislature throughout her years of service which have been marked by her attention to detail and hard work; and

WHEREAS, After her many years of working for the Kansas Legislature in various capacities, Shirley Higgins plans to retire to dedicate more time to interior decorating and supporting the economy through her love of shopping: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor Shirley Higgins for her professional accomplishments, thank her for her contribution of many dedicated years of public service given to the State of Kansas and wish her continued success in all her future endeavors.

On emergency motion of Senator Schodorf SR 1806 was adopted unanimously.

Senator Barnett introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1807-

A RESOLUTION recognizing and thanking Jesse Solis and the city of Emporia, Kansas for the dedication of an American Braille tactile flag.

WHEREAS, Jesse Solis, who has been instrumental in raising awareness for this braille flag, on behalf of Emporia, Kansas, is dedicating an American Braille tactile flag with the pledge of allegiance transcribed in braille to the Senate President Steve Morris to be displayed in the capitol building; and

WHEREAS, Armistice Day was expanded to Veterans Day after an Emporia resident Al King led a campaign to honor all veterans on November 11, 1953, making Emporia the founding city for Veterans Day; and

WHEREAS, Randolph Cabral, founder of the Kansas Braille Transcription Institute in Wichita, designed the braille flag for his father, Jesus Sanchez "Chuy" Cabral, a veteran of World War II, after he lost his vision; and

WHEREAS, Congressman Tiahrt sponsored a bill that placed an American Braille tactile flag in Arlington National Cemetery honoring blind members of the Armed Forces, veterans, and other Americans; and

WHEREAS, Currently, the United States has over 1,000,000 blind and low-vision veterans and the Department of Defense estimates that 16 percent of those injured in Operation Iraqi Freedom and Operation Enduring Freedom suffer from severe vision loss; and

WHEREAS, This braille flag enables all visually impaired Kansans to appreciate Old Glory and to read the pledge of allegiance: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize and thank Jesse Solis and the city of Emporia for dedicating an American Braille tactile flag for display in the capitol building so that all visually impaired Kansans can fully appreciate Old Glory and can be reminded of all that she means to us.

On emergency motion of Senator Barnett SR 1807 was adopted unanimously.

Senator Barnett introduced Jesse P. Solis and Randolph Cabral, who presented a braille American flag to President Morris for display in the Capitol.

Also introduced were Dr. Marshall Havenhill, Matt Zimmerman, Bob Agler, Jeanine McKenna, John Clark, Gary Eichorn, James Reddick, Penny Oliver and Patrick Hayes.

REPORT ON ENGROSSED BILLS

SB 14, SB 19 reported correctly engrossed January 23, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Judiciary recommends SB 34, SB 44 be passed.

Also, **SB 45** be amended on page 2, in line 41, by striking "all"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 23** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 23," as follows:

"Substitute for SENATE BILL No. 23

By Committee on Ways and Means

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010 and June 30, 2011, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2008 Supp. 55-193, 79-2978, 79-2979, 79-3425i, 79-34,156, 79-4801 and 82a-953a and repealing the existing sections.";

and the substitute bill be passed.

Also, **SB 30** be amended on page 1, in line 13, by striking "All" and inserting "Except as otherwise provided in this section, all"; in line 23, by striking all after the period; by striking all in lines 24 and 25; in line 32, after "to" by inserting "a local public library for fair market value. The director of legislative administrative services shall establish and carry out a procedure whereby such libraries are notified of the authorization to purchase such computer equipment pursuant to this section. If any remaining computer equipment is not sold to such libraries, then such computer equipment shall be offered and may be sold to"; in line 35, by striking "two additional purchases" and inserting "one additional purchase"; in line 37, by striking "purchases" and inserting "purchase"; after line 41, by inserting the following:

"(d) As used in this section:

(1) "Member of the legislature" means a member of the legislature who is a member of the house of representatives or the senate.

(2) "Local public library" means any library established pursuant to article 12 of chapter 12 of the Kansas Statutes Annotated, and amendments thereto, and any library which is operating pursuant to an interlocal agreement between a city, county or township and a school district pursuant to K.S.A. 12-2901 et seq., and amendments thereto, or K.S.A. 72-8230, and amendments thereto.

(e) Any property not disposed of in accordance with subsection (b), may be disposed of in the manner prescribed in the state surplus property act.";

Also on page 1, in line 43, by striking "the Kansas highway patrol" and inserting "a state law enforcement agency";

On page 2, in line 2, by striking all after "(b)"; by striking all in line 3; in line 4, by striking all before "subject" and inserting "The agency head of any state law enforcement agency who employs persons who are authorized to carry firearms when discharging the duties of such person's employment is hereby authorized to sell the personal sidearm of such person to such person who is authorized to carry such firearm"; in line 5, by striking all after "A"; by striking all in lines 6 through 8 and inserting "retiring or resigning state law enforcement officer, as defined in K.S.A 74-5602, and amendments thereto, who resigns from such state agency to accept employment with a local, state or federal law enforcement agency, is hereby authorized to purchase, upon such retirement or resignation, such employee's"; in line 13, by striking "retiring trooper"; by striking all in line 14; in line 15, by striking all before "determines" and inserting "resigning or retiring"; in line 16, by striking all after "such" agency from which such person is resigning or retiring"; in line 16, by striking all after "such" and inserting "employee are"; in line 19, by striking "troopers and officers" and inserting "or retiring state employee"; in line 21, by striking "highway patrol general"; by striking all in line 22 and inserting "appropriate special revenue fund of such state agency."; and the bill be passed as amended.

JOURNAL OF THE SENATE

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, January 27, 2009.

ELEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Tuesday, January 27, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-nine senators present. Senator Teichman was excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Toward the end of many sessions When we seemed to reach a stalemate, I turned to quote from Ben Franklin For help as it was getting late.

Lord, I'd like to refer to him again, Before we reach the end, And seek the wisdom and inspiration Of the genius we know as Ben.

In April of seventeen eighty-seven He delivered a powerful speech To the Constitutional Convention Where a deadlock had been reached.

As Franklin began to close his speech, The eighty-one year old said that day, "God governs in the affairs of men", And then he went on to say . . .

"If God sees every sparrow fall, Then we shouldn't be afraid, For surely a nation cannot rise Without the Father's aid,"

(And Lord, I would paraphrase) "If You see every sparrow fall, Then shouldn't we take our chances, And trust that You can help us solve The deficits that plague Kansas?"

I pray in the Name of Jesus,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 95, An act concerning crimes and punishment; relating to traffic in contraband in a correctional institution or care and treatment facility; amending K.S.A. 21-3826 and repealing the existing section, by Committee on Ways and Means.

SB 108, An act concerning the economic revitalization and reinvestment act; relating to the secretary of commerce and the Kansas development finance authority; authorizing the issuance of bonds for certain economic development projects; amending K.S.A. 2008 Supp. 74-50,136 and repealing the existing section, by Committee on Ways and Means.

SB 109, An act amending the grandparents as caregivers act; amending K.S.A. 2008 Supp. 38-145, 38-146 and 38-147 and repealing the existing sections, by Committee on Ways and Means.

SB 110, An act concerning criminal procedure; relating to a defendant's competency; amending K.S.A. 22-3302 and repealing the existing section, by Committee on Ways and Means.

SB 111, An act concerning political subdivision budget expenditures from revenues produced by property tax levies; providing limitations thereon; repealing K.S.A. 2008 Supp. 79-2925b, by Special Committee on Assessment and Taxation.

SB 112, An act concerning the Kansas act against discrimination; relating to disability; amending K.S.A. 44-1001, 44-1002 and 44-1006 and repealing the existing sections, by Committee on Judiciary.

SB 113, An act pertaining to the legislature; relating to the size thereof; amending K.S.A. 4-101 and repealing the existing section, by Senator Steineger.

SB 114, An act concerning zoning; relating to group homes; amending K.S.A. 12-736 and repealing the existing section, by Committee on Federal and State Affairs.

SB 115, An act relating to fire departments; concerning certain powers; amending K.S.A. 31-145 and repealing the existing section, by Committee on Federal and State Affairs.

SB 116, An act concerning private detectives; relating to permits to carry concealed firearms; amending K.S.A. 2008 Supp. 12-4516, 21-4619, 75-7b01 and 75-7b17 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 117, An act concerning elections; relating to disclosures on certain political advertisings, by Committee on Ethics and Elections.

SB 118, An act concerning elections; relating to campaign finance; amending K.S.A. 2008 Supp. 25-4148 and repealing the existing section, by Committee on Ethics and Elections.

SB 119. An act enacting the community improvement district act, by Committee on Commerce.

SB 120, An act concerning the Kansas investments in major projects and comprehensive training; relating to the secretary of commerce; authorizing the funding of certain economic development projects; amending K.S.A. 2008 Supp. 74-50,103 and repealing the existing section, by Committee on Commerce.

SB 121, An act concerning health care; relating to reform in funding and structure of the federal and state programs, by Committee on Public Health and Welfare.

SB 122, An act relating to motor vehicles; concerning rebuilt salvage vehicles; amending K.S.A. 79-5104 and K.S.A. 2008 Supp. 8-135 and repealing the existing sections, by Committee on Transportation.

SB 123, An act relating to antique vehicles; concerning certain license plates; amending K.S.A. 2008 Supp. 8-172 and repealing the existing section, by Committee on Transportation.

SB 124, An act concerning retirement and pensions; relating to the Kansas police and firemen's retirement system; affiliation by Kansas department of wildlife and parks; membership of certain officers and employees; employer and employee contributions, by Committee on Transportation.

SB 125, An act concerning the grandparents as caregivers act; relating to eligibility requirements; amending K.S.A. 2008 Supp. 38-145 and repealing the existing section, by Senator Faust-Goudeau.

SB 126, An act concerning insurance; enacting the controlled insurance programs act, by Committee on Financial Institutions and Insurance.

SB 127, An act concerning taxation of alcoholic liquor; relating to distribution of revenue; amending K.S.A. 19-101a and K.S.A. 2008 Supp. 79-41a03 and repealing the existing sec-

tions; also repealing K.S.A. 19-101m, 79-41a04 and 79-41a05, by Committee on Assessment and Taxation.

SB 128, An act creating and implementing the fatherhood initiative program; relating to the duties of the department of social and rehabilitation services, by Senator Faust-Goudeau.

SB 129, An act concerning the state medicaid plan; requiring certain changes regarding county jail inmates, by Committee on Local Government.

SENATE CONCURRENT RESOLUTION No. 1603-

By Senator Steineger

A CONCURRENT RESOLUTION concerning endorsement of the Unified Greeley County government.

WHEREAS, The voters of Greeley County and the City of Tribune agreed to unify the governments of the city and county in November, 2007; and

WHEREAS, The leaders of Greeley County and the City of Tribune were seeking ways to provide more efficient and effective delivery of public services; and

WHEREAS, The people of Greeley County and the City of Tribune were seeking new ways to deal with the challenges of a shrinking population, a balancing of rural and urban needs, a loss of jobs and a continuing need to provide quality public services; and

WHEREAS, A unified city and county government had been part of an ongoing discussion for over five years; and

WHEREAS, The people of Greeley County and the City of Tribune determined a unified government was a creative solution to help address new challenges: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the Legislature endorses the Unified Greeley County and congratulates the people of Greeley County and the City of Tribune for their creative approach to delivery of county and city services; and

Be it further resolved: That the Secretary of State is directed to send enrolled copies of this resolution to each of the five members of the new Unified Greeley County governing body.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to Committees as indicated:

Assessment and Taxation: **SB 97, SB 98, SB 99, SB 100**; **SCR 1602**. Ethics and Elections: **SB 103**. Federal and State Affairs: **SB 106, SB 107**. Financial Institutions & Insurance: **SB 90, SB 104, SB 105**. Judiciary: **SB 92, SB 94**. Local Government: **SB 91**. Public Health and Welfare: **SB 101, SB 102**. Ways and Means: **SB 93, SB 96**.

CONFIRMATION OF APPOINTMENTS

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

Senator D. Schmidt moved the following appointments be confirmed as recommended by the Confirmation Oversight Committee:

By the Governor:

On the appointment to the:

Central Low-Level Radioactive Waste Commission:

Shari Feist Albrecht, member, serves at the pleasure of the Governor.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, PilcherCook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Central Low-Level Radioactive Waste Commission:

John William Mitchell, alternate member, serves at the pleasure of the Governor.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Kansas Agricultural Remediation Board:

Larry S. Shivers, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Kansas Bioscience Authority:

Sandra Airene Lawrence, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Kansas Bioscience Authority:

John W. Carlin, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Kansas Court of Tax Appeals, Chief Hearing Officer:

Trevor Wohlford, term expires July 1, 2012.

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

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Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Kansas Electric Transmission Authority:

Leslie W. Evans, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Kansas Human Rights Commission:

Terry Lee Crowder, term expires January 15, 2011.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Kansas Inc.:

Patricia Bossert, term expires January 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Kansas Inc.:

John A. Pilla, term expires January 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Kansas National Guard, Brigadier General:

Col. Norman E. Steen, serves at the pleasure of the Governor.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Kansas Technology Enterprise Corporation:

Dr. Bruce D. Dallman, term expires January 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Pooled Money Investment Board:

Norman B. Dawson, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Pooled Money Investment Board:

J. Thomas Thull, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

Public Employee Relations Board:

Kenneth W. Gorman, term expires March 15, 2011.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

State Banking Board:

Michael R. Downing, term expires March 15, 2011.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

State Banking Board:

Winton A. Winter, Jr., term expires March 15, 2011.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

State Banking Board:

Melvin G. Minor, term expires March 15, 2011.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

State Board of Indigents' Defense Services:

Lawrence P. Daniels, term expires January 15, 2009.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

State Board of Indigents' Defense Services:

John R. Weber, term expires January 15, 2010.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, PilcherCook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the: State Civil Service Board:

Correne K. Green, term expires March 15, 2010.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colver, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmever, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

State Civil Service Board:

Robert B. VanCleave, term expires March 15, 2010.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colver, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

University of Kansas Hospital Authority:

Gregory Michael Graves, term expires March 15, 2011.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

University of Kansas Hospital Authority:

Robert W. Honse, term expires March 15, 2010.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

On the appointment to the:

University of Kansas Hospital Authority:

Sharon Lindenbaum, term expires March 15, 2011.

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

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Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

By the Board of Healing Arts:

On the appointment to the:

Kansas Board of Healing Arts, Executive Director:

John Douglas (Jack) Confer, serves at the pleasure of the Board of Healing Arts.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Teichman.

The appointment was confirmed.

REPORTS OF STANDING COMMITTEES

Committee on Education recommends SB 40, SB 41 be passed.

COMMITTEE OF THE WHOLE

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

On motion of Senator Taddiken the following report was adopted:

Recommended SB 34, SB 44 be passed.

SB 45 be amended by adoption of the committee amendments, and the bill be passed as amended.

SB 30 be amended by adoption of the committee amendments, and be further amended by motion of Senator Emler as amended by Senate Committee, on page 2, in line 12, after the comma by inserting "K.S.A. 72-1033 and 72-1623"

Senator Masterson further amended **SB 30**, on page 2, in line 43, by striking "replacement cost" and inserting "fair market value"; also in line 43, after "sidearm" by inserting ", as fixed by the agency head," and **SB 30** be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 10:30 a.m., Wednesday, January 28, 2009.

Journal of the Senate

TWELFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, January 28, 2009-10:30 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

The reason we are here this morning We have a lot to do. We are facing a gigantic elephant Which is difficult to chew.

This elephant doesn't represent Any particular party. It's an elephant which represents A budget hale and hardy!

Some say it's common knowledge, An elephant in its prime Can only be consumed One bite at a time!

Others say that this won't work. This elephant in its prime Won't ever be consumed One bite at a time.

This elephant has a way of growing Faster than we can eat. If we don't find a better way, We'll only taste defeat.

Lord, You know this kind of elephant. You have tackled more than one. Reveal to us just what to do. To cause him to succumb.

I pray in the Name of Jesus, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

GUESTS

President Morris introduced Elena Pripisnova and Tatevik Avagyan, of Russia, who were visiting in the Capitol.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 130, An act concerning school districts; concerning school terms, holidays and inservice training; amending K.S.A. 72-1106 and repealing the existing section, by Committee on Education.

SB 131, An act concerning technical colleges; relating to the powers and duties of the governing bodies thereof, by Committee on Education.

SB 132, An act enacting the business entity transaction act; amending K.S.A. 17-7675, 17-7681, 56a-401, 56a-502, 56a-905, 56a-906, 56a-907 and 56a-908 and repealing the existing sections; also repealing K.S.A. 17-7684, 17-7685, 56a-901, 56a-902, 56a-903 and 56a-904, by Committee on Judiciary.

SB 133, An act concerning the Kansas sports hall of fame; relating to funding therefor, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to Committees as indicated:

Assessment and Taxation: SB 111, SB 127. Commerce: SB 108, SB 119, SB 120. Ethics and Elections: SB 117, SB 118. Federal and State Affairs: SB 113, SB 115, SB 116. Financial Institutions & Insurance: SB 126. Judiciary: SB 95, SB 110, SB 112. Local Government: SB 114; SCR 1603. Public Health and Welfare: SB 121, SB 129. Transportation: SB 122, SB 123. Ways and Means: SB 109, SB 124, SB 125, SB 128.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 30, An act concerning surplus property of the state; amending K.S.A. 2008 Supp. 75-6606 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 34, An act concerning open records; relating to the exceptions to disclosure; amending K.S.A. 2008 Supp. 45-229 and repealing the existing section; also repealing K.S.A. 2008 Supp. 45-229c, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 44, An act concerning civil actions and civil penalties; relating to the submission of false or fraudulent claims to or the performance of fraudulent acts upon the state or a political subdivision thereof, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong. The bill passed.

SB 45, An act concerning the Kansas power of attorney act; amending K.S.A. 58-652, 58-656 and 58-657 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

REPORT ON ENGROSSED BILLS

SB 45 reported correctly engrossed January 27, 2009. Also, **SB 30** reported correctly engrossed January 28, 2009.

REPORT ON ENROLLED BILLS

SR 1806, SR 1807 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on January 28, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Financial Institutions and Insurance recommends SB 50 be passed.

COMMITTEE OF THE WHOLE

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

On motion of Senator Brungardt the following report was adopted:

The Committee report on **SB 23** recommending a **Senate Sub for SB 23** be adopted, and the substitute bill be passed.

Substitute for SB 23, be amended by motion of Senator Emler on page 26, by striking all in lines 28 through 32 and by relettering the remaining subsections accordingly;

On page 44, in line 37, by striking all after "lapsed"; by striking all in lines 38 and 39; in line 40, by striking all before the period;

And by relettering the remaining subsections accordingly

The Committee rose and reported progress. (See Committee of the Whole Afternoon Session.)

On motion of Senator D. Schmidt, the Senate recessed until 1:30 p.m.

AFTERNOON SESSION

The Senate returned to the Committee of the Whole with Senator Brungardt in the Chair. **Sub SB 23** be further amended by motion of Senator McGinn, on page 61, by striking all in lines 1 through 6; in line 7, by striking all before "And"

Sub SB 23 be further amended by motion of Senator Vratil, on page 17, in line 39, by subtracting \$1,309,846 from the dollar amount and by adjusting the dollar amount in line 39 accordingly:

On page 58, in line 42, by striking "\$46,750,000" and inserting "\$48,059,846";

On page 59, in line 4, by striking "\$46,750,000" and inserting "\$48,059,846"

Sub SB 23 be further amended by motion of Senator Francisco, on page 44, in line 12, by adding \$600,000 to the dollar amount and by adjusting the dollar amount in line 12 accordingly; in line 17, by adding \$200,000 to the dollar amount and by adjusting the dollar amount in line 17 accordingly; by striking all in lines 33 through 40;

And by relettering the remaining subsections;

On page 45, by striking all in lines 25 through 29;

And by relettering the remaining subsections;

On page 59, in line 21, by subtracting \$774,357 from the dollar amount and by adjusting the dollar amount in line 21 accordingly

Sub SB 23 be further amended by motion of Senator Umbarger, on page 61, following line 10, by inserting the following:

"Sec. 98. On the effective date of this act, during the fiscal year ending June 30, 2009, no state agency shall expend any moneys appropriated for fiscal year 2009 for such agency as authorized by chapter 131, 156, 159, 160, 164, 172 or 184 of the 2008 Session Laws of Kansas, or by this or other appropriation act of the 2009 regular session of the legislature to permanently eliminate or terminate a program or permanently close a facility until 30 days after such agency has submitted to the senate committee on ways and means and the house committee on appropriations a written plan for such program or facility. Such plan shall include an analysis of the program or facility's merits and cost effectiveness as well as the impact of such elimination or closure on other state agencies.";

And by renumbering remaining sections accordingly

Sub SB 23 be further amended by motion of Senator Kelly, on page 1, after line 38 by inserting the following:

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 74-3903, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$654 from the abstracters' fee fund of the abstracters' board of examiners to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the abstracters' fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the abstracters' fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the abstracters' board of examiners by other state agencies which receive appropriations from the state general fund to provide such services.";

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

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 1-204, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$9,500 from the board of accountancy fee fund of the board of accountancy to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the board of accountancy fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the board of accountancy fee fund to the state general fund of accountancy fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other state agencies which are performed on behalf of the board of accountancy by other state agencies which receive appropriations from the state general fund to provide such services.";

Also on page 2, after line 7 by inserting the following:

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 75-1308, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$257,311 from the bank commissioner fee fund of the state bank commissioner to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the bank commissioner fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the bank commissioner fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the bank commissioner fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state bank commissioner by other state agencies which receive appropriations from the state general fund to provide such services."; Also on page 2, after line 13, by inserting the following:

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 65-1817a, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$4,676 from the board of barbering fee fund of the Kansas board of barbering to the state general fund: *Provided*, That the

transfer of such amount shall be in addition to any other transfer from the board of barbering fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the board of barbering fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the Kansas board of barbering by other state agencies which receive appropriations from the state general fund to provide such services.";

Also on page 2, after line 19 by inserting the following:

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 74-7506, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$19,717 from the behavioral sciences regulatory board fee fund of the behavioral sciences regulatory board to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the behavioral sciences regulatory board fee fund to the state general fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the behavioral sciences regulatory board fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the behavioral sciences regulatory board by other state agencies which receive appropriations from the state general fund to provide such services.";

On page 3, after line 4 by inserting the following:

"(c) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 65-2855, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$67,618 from the healing arts fee fund of the state board of healing arts to the state general fund. *Provided*, That the transfer of such amount shall be in addition to any other transfer from the healing arts fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the healing arts fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other state agencies which are performed on behalf of the state board of healing arts by other state agencies which receive appropriations from the state general fund to provide such services.";

Also on page 3, after line 10 by inserting the following:

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 74-2704, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$24,191 from the cosmetology fee fund of the Kansas state board of cosmetology to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the cosmetology fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the cosmetology fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the cosmetology fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the Kansas state board of cosmetology by other state agencies which receive appropriations from the state general fund to provide such services.";

Also on page 3, after line 16 by inserting the following:

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 17-2236, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$26,840 from the credit union fee fund of the state department of credit unions to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the credit union fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the credit union fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the credit union fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state general fund to provide such services.";

Also on page 3, after line 22 by inserting the following:

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 74-1405, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$11,472 from the dental board fee fund of the Kansas dental board to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the dental board fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the dental board fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other state agencies which are performed on behalf of the Kansas dental board by other state agencies which receive appropriations from the state general fund to provide such services.";

Also on page 3, after line 28 by inserting the following:

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 65-1718, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$8,298 from the mortuary arts fee fund of the state board of mortuary arts to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the mortuary arts fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the mortuary arts fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the mortuary arts fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state general fund to provide such services.";

Also on page 3, after line 35 by inserting the following:

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 2008 Supp. 74-5805, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$885 from the hearing instrument board fee fund of the Kansas board of examiners in fitting and dispensing of hearing instruments to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the hearing instrument board fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the hearing instrument board fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the Kansas board of examiners in fitting and dispensing of hearing instruments by other state agencies which receive appropriations from the state general fund to provide such services.";

Also on page 3, after line 41 by inserting the following:

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 74-1108, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$55,647 from the board of nursing fee fund of the board of nursing to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the board of nursing fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the board of nursing fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state general fund to provide such services.";

On page 4, after line 6 by inserting the following:

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 74-1503, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$3,912 from the optometry fee fund of the board of examiners in optometry to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the optometry fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the optometry fee fund to the state general fund pursuant to this subsection

is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the board of examiners in optometry by other state agencies which receive appropriations from the state general fund to provide such services.";

Also on page 4, after line 17 by inserting the following:

"(c) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 74-1609, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$25,102 from the state board of pharmacy fee fund of the state board of pharmacy to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the state board of pharmacy fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state board of pharmacy fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state board of pharmacy fee fund to the state general fund spectrum to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state general fund to provide such services."; Also on page 4, after line 22 by inserting the following:

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 58-4107, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$9,804 from the appraiser fee fund of the real estate appraisal board to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the appraiser fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the appraiser fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other state agencies which are performed on behalf of the real estate appraisal board by other state agencies which receive appropriations from the state general fund to provide such services.";

Also on page 4, after line 40 by inserting the following:

"(c) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 58-3074, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$83,095 from the real estate fee fund of the Kansas real estate commission to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the real estate fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the real estate fee fund to the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the Kansas real estate commission by other state agencies which receive appropriations from the state general fund to provide such services.";

On page 5, after line 13 by inserting the following:

"(c) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 74-7009, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$17,325 from the technical professions fee fund of the state board of technical professions to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the technical professions fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the technical professions fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the technical professions fee fund to the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state board of technical professions by other state agencies which receive appropriations from the state general fund to provide such services.";

Also on page 5, after line 19 by inserting the following:

"(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 47-820, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$8,068 from the veterinary ex-

aminers fee fund of the state board of veterinary examiners to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the veterinary examiners fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the veterinary examiners fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state board of veterinary examiners by other state agencies which receive appropriations from the state general fund to provide such services.";

On page 6, in line 2, by adding \$19,664 to the dollar amount and by adjusting the dollar amount in line 2 accordingly; in line 7, by adding \$79,100 to the dollar amount and by adjusting the dollar amount in line 7 accordingly; in line 12, by adding \$70,972 to the dollar amount and by adjusting the dollar amount in line 12 accordingly; in line 19, by adding \$376,895 to the dollar amount and by adjusting the dollar amount in line 19 accordingly; in line 19 accordingly; in line 26, by adding \$57,500 to the dollar amount and by adjusting the dollar amount in line 26 accordingly;

On page 10, after line 30 by inserting the following:

"(c) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of the uniform unclaimed property act, K.S.A. 58-3934 et seq., and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$55,419 from the state treasurer operating fund of the state treasurer to the state general fund. *Provided*, That the transfer of such amount shall be in addition to any other transfer from the state treasurer operating fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state treasurer operating fund to the state treasurer operating fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other state agencies which are performed on behalf of the state treasurer by other state agencies which receive appropriations from the state general fund to provide such services.

(d) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 10-108, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$30,000 from the bond services fee fund of the state treasurer to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the bond services fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the bond services fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state treasurer by other state agencies which receive appropriations from the state general fund to provide such services.

(e) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 2008 Supp. 75-648, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$2,651 from the Kansas postsecondary education savings program expense fund of the state treasurer to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the Kansas postsecondary education savings program expense fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the Kansas postsecondary education savings program expense fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state treasurer by other state agencies which receive appropriations from the state general fund to provide such services.

(f) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 58-3978, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$17,349 from the unclaimed property expense fund of the state treasurer to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the unclaimed property expense fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the unclaimed property expense fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state treasurer by other state agencies which receive appropriations from the state general fund to provide such services.

(g) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 75-4235, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$25,716 from the pooled money investment portfolio fee fund of the state treasurer to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the pooled money investment portfolio fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the pooled money investment portfolio fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the pooled money investment portfolio fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state treasurer by other state agencies which receive appropriations from the state general fund to provide such services.";

On page 12, after line 18, by inserting the following:

"(d) On the effective date of this act, the state corporation commission shall certify to the director of the budget and director of accounts and reports an amount or amounts to be transferred on the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 55-143, 55-167, 55-168, 55-180, 55-1,116, 66-1,142, or 66-1a01, and amendments thereto, or of any other statute, from the public service regulation fund, the motor carrier license fees fund, the conservation fee fund, the natural gas underground storage fee fund, and the facility conservation improvement program fund of the state corporation commission to the state general fund during fiscal year 2009: Provided, That the aggregate of the amounts specified in such certification to be transferred from such funds during fiscal year 2009 shall be \$634,875: Provided further, That, upon receipt of such certification, the director accounts and reports shall transfer the amount or amounts specified to be transferred from the public service regulation fund, the motor carrier license fees fund, the conservation fee fund, the natural gas underground storage fee fund, and the facility conservation improvement program fund to the state general fund on the date or dates specified in such certification therefor, or as soon thereafter as moneys are available: *Provided however*, That the aggregate of the amounts transferred in accordance with this subsection to the state general fund from the public service regulation fund, the motor carrier license fees fund, the conservation fee fund, the natural gas underground storage fee fund, and the facility conservation improvement program fund during fiscal year 2009 shall not exceed \$634,875: And provided further, That the transfer of each such amount from the public service regulation fund, the motor carrier license fees fund, the conservation fee fund, the natural gas underground storage fee fund, or the facility conservation improvement program fund to the state general fund pursuant to this subsection shall be in addition to any other transfer from the public service regulation fund, the motor carrier license fees fund, the conservation fee fund, the natural gas underground storage fee fund, or the facility conservation improvement program fund to the state general fund prescribed by law: And provided further, That the transfer of each such amount from the public service regulation fund, the motor carrier license fees fund, the conservation fee fund, the natural gas underground storage fee fund, and the facility conservation improvement program fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state corporation commission by other state agencies which receive appropriations from the state general fund to provide such services.";

Also on page 12, after line 24 by inserting the following:

"(d) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of any other statute, the director of accounts and reports shall transfer \$24,100 from the utility regulatory fee fund of the citizens' utility ratepayer

board to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the utility regulatory fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the utility regulatory fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the citizens' utility ratepayer board by other state agencies which receive appropriations from the state general fund to provide such services.";

On page 14, after line 23 by inserting the following:

"(s) On the effective date of this act, of the \$407,813 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 137(a) of chapter 131 of the 2008 Session Laws of Kansas from the state general fund in the energy conservation improvements—debt service account, the sum of \$352,500 is hereby lapsed.

(t) On the effective date of this act, of the \$36,146,303 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 85(a) of chapter 131 of the 2008 Session Laws of Kansas from the state general fund in the KPERS bonds debt service account, the sum of \$10,070,000 is hereby lapsed.

(u) On the effective date of this act, of the \$611,376 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 85(a) of chapter 131 of the 2008 Session Laws of Kansas from the state general fund in the public broadcasting digital conversion debt service account, the sum of \$315,000 is hereby lapsed.

(v) On the effective date of this act, of the \$10,052,858 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 137(a) of chapter 131 of the 2008 Session Laws of Kansas from the state general fund in the statehouse improvements—debt service account, the sum of \$1,190,000 is hereby lapsed.";

On page 20, by striking all in lines 33 through 43;

On page 21, by striking all in lines 1 through 24;

On page 22, in line 6, by adding \$119,514 to the dollar amount and by adjusting the dollar amount in line 6 accordingly; in line 12, by adding \$36,843 to the dollar amount and by adjusting the dollar amount in line 12 accordingly; in line 17, by adding \$139,697 to the dollar amount and by adjusting the dollar amount in line 17 accordingly; in line 22, by adding \$183,347 to the dollar amount and by adjusting the dollar amount in line 22 accordingly;

On page 24, in line 36, by adding \$8,500,000 to the dollar amount and by adjusting the dollar amount in line 36 accordingly; after line 37 by inserting the following:

"(k) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 98(b) of chapter 131 of the 2008 Session Laws of Kansas on the medical programs fee fund is hereby increased from \$38,500,000 to \$41,000,000.";

And by relettering the remaining subsections accordingly;

On page 25, in line 2 by striking "\$254,899" and inserting "\$222,124"; by striking all in lines 23 through 32;

On page 26, in line 4 by striking "\$277,630" and inserting "\$72,004"; by striking all in lines 8 through 43;

On page 27, by striking all in lines 1 through 14;

And by relettering the remaining subsections accordingly;

On page 29, in line 5, by adding \$7,000,000 to the dollar amount and by adjusting the dollar amount in line 5 accordingly;

On page 29, by striking all in lines 18 through 37;

And by relettering the remaining subsections accordingly;

Also on page 29, after line 42 by inserting the following:

"(e) On the effective date of this act, the \$37,170,000 appropriated for the above agency for the fiscal year ending June 30, 2010, by section 10 (a) of chapter 172 of the 2008 Session Laws of Kansas from the state general fund in the general state aid account is hereby lapsed.

(f) On the effective date of this act, the director of accounts and reports shall transfer all moneys in the keeping education promises trust fund to the state general fund. On the effective date of this act, the keeping education promises trust fund is hereby abolished.";

On page 33, after line 8 by inserting the following:

"(b) On the effective date of this act, of the \$326,999 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 151(a) of chapter 131 of the 2008 Session Laws of Kansas from the state general fund in the armory/classroom/recreation center debt service account, the sum of \$160,000 is hereby lapsed.";

Also on page 33, in line 34 by adding \$4,880 to the dollar amount and by adjusting the dollar amount in line 34 accordingly;

On page 37, after line 35 by inserting the following:

"(k) On the effective date of this act, of the \$1,401,000 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 156(a) of chapter 131 of the 2008 Session Laws of Kansas from the state general fund in the debt service payment for the reception and diagnostic unit relocation bond issue account, the sum of \$40,000 is hereby lapsed.";

On page 39, by striking all in lines 4 through 13;

On page 40, after line 29 by inserting the following:

"(h) On the effective date of this act, of the \$2,226,807 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 160(a) of chapter 131 of the 2008 Session Laws of Kansas from the state general fund in the debt service—rehabilitation and repair of the statewide armories account, the sum of \$1,140,000 is hereby lapsed.

(i) On the effective date of this act, of the \$115,188 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 160(a) of chapter 131 of the 2008 Session Laws of Kansas from the state general fund in the debt service—armory/classroom/recreation center at PSU account, the sum of \$55,000 is hereby lapsed.";

On page 41, after line 13 by inserting the following:

"(e) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 75-1514, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$129,627 from the fire marshal fee fund of the state fire marshal to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the fire marshal fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the fire marshal fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other state agencies which are performed on behalf of the state fire marshal by other state agencies which receive appropriations from the state general fund to provide such services.";

On page 42, after line 5 by inserting the following:

"(c) On the effective date of this act, of the \$311,850 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 158(a) of chapter 131 of the 2008 Session Laws of Kansas from the state general fund in the debt service—headquarters building account, the sum of \$285,000 is hereby lapsed.";

Also on page 42, after line 26 by inserting the following:

"(c) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 65-6151, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$53,077 from the emergency medical services operating fund of the emergency medical services board to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the emergency medical services operating fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the emergency medical services operating fund to the state general fund to the state general fund to the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the emergency medical services board by other state agencies which receive appropriations from the state general fund to provide such services.";

On page 43, in line 13, by adding \$17,598 to the dollar amount which reads \$2,596 and by adjusting the dollar amount in line 13 accordingly; in line 18, by adding \$7,320 to the dollar amount which reads \$1,080 and by adjusting the dollar amount in line 18 accordingly; in line 23, by adding \$71,170 to the dollar amount which reads \$10,501 and by adjusting the dollar amount in line 23 accordingly; after line 38 by inserting the following:

"(b) On the effective date of this act, of the \$1,540,821 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 129(b) of chapter 131 of the 2008 Session Laws of Kansas from the state general fund in the state fair debt service account, the sum of \$410,000 is hereby lapsed.";

On page 44, in line 7, by adding \$475,375 to the dollar amount which reads \$70,137 and by adjusting the dollar amount in line 7 accordingly; in line 12, by adding \$477,960 to the dollar amount which reads \$70,519 and by adjusting the dollar amount in line 12 accordingly; in line 17, by adding \$143,120 to the dollar amount which reads \$21,116 and by adjusting the dollar amount in line 17 accordingly; in line 21, by adding \$121,813 to the dollar amount which reads \$17,972 and by adjusting the dollar amount in line 21 accordingly; in line 27, by adding \$55,389 to the dollar amount which reads \$8,172 and by adjusting the dollar amount in line 27 accordingly; in line 32, by adding \$36,996 to the dollar amount which reads \$5,459 and by adjusting the dollar amount in line 32 accordingly; in line 37, by adding \$137,028 to the dollar amount which reads \$20,217 and by adjusting the dollar amount in line 37 accordingly; in line 37, by striking all after "lapsed"; by striking all in lines 38 and 39; in line 40, by striking all before the period;

On page 45, in line 2, by adding \$749,128 to the dollar amount which reads \$110,527 and by adjusting the dollar amount in line 2 accordingly; in line 7, by adding \$187,531 to the dollar amount which reads \$27,668 and by adjusting the dollar amount in line 7 accordingly; in line 19, by adding \$109,822 to the dollar amount which reads \$16,203 and by adjusting the dollar amount in line 19 accordingly; in line 24, by adding \$30,500 to the dollar amount which reads \$4,500 and by adjusting the dollar amount in line 29, by adding \$36,773 to the dollar amount which reads \$36,426 and by adjusting the dollar amount in line 29 accordingly; in line 34, by adding \$96,520 to the dollar amount which reads \$14,241 and by adjusting the dollar amount in line 34 accordingly \approx 39, by adding \$14,823 to the dollar amount which reads \$2,187 and by adjusting the dollar amount in line 39 accordingly;

On page 46, in line 1, by adding \$207,400 to the dollar amount which reads \$30,600 and by adjusting the dollar amount in line 1 accordingly; in line 6, by adding \$29,280 to the dollar amount which reads \$4,320 and by adjusting the dollar amount in line 6 accordingly; in line 10, by adding \$12,200 to the dollar amount which reads \$1,800 and by adjusting the dollar amount in line 10 accordingly; in line 16, by adding \$117,120 to the dollar amount which reads \$17,280 and by adjusting the dollar amount in line 16 accordingly; in line 32, accordingly; in line 32 accordingly;

On page 47, by striking all in lines 18 through 24 and inserting the following:

"(b) On the effective date of this act, notwithstanding the provisions of subsection (j) of K.S.A. 40-3403, and amendments thereto, or any other statute, the director of accounts and reports shall not make any transfers pursuant to the provisions of subsection (j) of K.S.A. 40-3403, and amendments thereto, or any other statute, from the state general fund to the health care stabilization fund during the fiscal year ending June 30, 2009: *Provided*, That any transfers of moneys from the state general fund to the health care stabilization fund during the fiscal year ending June 30, 2009: *Provided*, That any transfers of moneys from the state general fund to the health care stabilization fund during the fiscal year ending June 30, 2009, pursuant to the provisions of subsection (j) of K.S.A. 40-3403, and amendments thereto, or any other statute, that have been made prior to the effective date of this act shall be reversed by the director of accounts and reports and reversing entries shall be entered upon the accounting records of the state treasurer therefor.";

Also on page 47, by striking all in lines 38 through 43;

On page 48, by striking all in lines 1 through 27 and inserting the following;

"(d) The director of accounts and reports shall not make the transfer of \$23,652,162 prescribed to be transferred from the state general fund to the state highway fund of the department of transportation by section 19(b)(3) of chapter 3 of the 2003 Session Laws of Kansas, which was directed to be made on or before June 30, 2009, on a date certified by the director of the budget for the purpose of repaying 25% of the amount transferred from the state highway fund to the state general fund pursuant to section 40(a) of chapter 205 of the 2002 Session Laws of Kansas. On the effective date of this act, the provisions of section 19(b)(3) of chapter 3 of the 2003 Session Laws of Kansas are hereby declared to be null

and void and shall have no force and effect. The legislature shall review the repayment of the remaining amount during fiscal year 2011.

(e) The director of accounts and reports shall not make the transfer of \$7,220,145 prescribed to be transferred from the state general fund to the state highway fund of the department of transportation by section 73(k)(3) of chapter 138 of the 2003 Session Laws of Kansas, which was directed to be made on or before June 30, 2009, on a date certified by the director of the budget for the purpose of repaying 25% of the amount transferred from the state highway fund to the state general fund pursuant to section 73(j) of chapter 138 of the 2003 Session Laws of Kansas. On the effective date of this act, the provisions of section 73(k)(3) of chapter 138 of the 2003 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect. The legislature shall review the repayment of the remaining amount during fiscal year 2011.

(f) The director of accounts and reports shall not make the transfer of \$23,901.75 prescribed to be transferred from the state general fund to the state highway fund of the department of transportation by section 19(c)(4) of chapter 160 of the 2003 Session Laws of Kansas, which was directed to be made on or before June 30, 2009, on a date certified by the director of the budget for the purpose of repaying 25% of the amount transferred from the state highway fund to the state general fund pursuant to section 19(b) of chapter 160 of the 2003 Session Laws of Kansas. On the effective date of this act, the provisions of section 19(c)(4) of chapter 160 of the 2003 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect. The legislature shall review the repayment of the remaining amount during fiscal year 2011.";

And by relettering the remaining subsections accordingly;

Also on page 48, by striking all in lines 35 through 41;

And by relettering the remaining subsections accordingly;

On page 49, in line 12, by striking "\$43,945,000" the first time it appears and inserting "\$35,000,000"; also in line 12, by striking "\$43,945,000" the second time it appears and inserting "\$35,000,000"; in line 17, by striking "\$43,945,000" and inserting "\$35,000,000"; after line 20 by inserting the following:

"(f) The director of accounts and reports shall not make the transfer of \$1,000,000 prescribed to be transferred from the state general fund to the workers compensation fund of the insurance department by section 10(a)(4) of chapter 3 of the 2003 Session Laws of Kansas, which was directed to be made on or before June 30, 2009, on a date certified by the director of the budget for the purpose of repaying 25% of the amount transferred from the workers compensation fund to the state general fund pursuant to section 10(a)(1) of chapter 3 of the 2003 Session Laws of Kansas. On the effective date of this act, the provisions of section 10(a)(4) of chapter 3 of the 2003 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect. The legislature shall review the repayment of the remaining amount during fiscal year 2011.";

On page 57, in line 39, after "(2)" by inserting "(A)";

On page 58, in line 1, before the period, by inserting "; (B) notwithstanding the provisions of K.S.A. 79-3425c and 75-3452i, and amendments thereto, or any other statute, the aggregate amount of moneys transferred into the special city and county highway fund for allocation and distribution during state fiscal year 2009, shall be allocated and paid in accordance with the following in the following priority listing: First, the amount of \$6,661,087 shall be apportioned and paid to eligible counties in accordance with the provisions of the applicable statutes that were in effect during such state fiscal years, for use by such counties and for allocation and payment to the cities and other local governmental entities in such counties for use in accordance with the provisions of the applicable statutes that were in effect during state fiscal years 2006, 2007 and 2008, and Second, the remainder of the aggregate amount of moneys transferred into the special city and county highway fund during state fiscal year 2009 shall be allocated and paid to all counties, cities and other local governmental entities in accordance with the provisions of K.S.A. 2008 Supp. 79-3425c, and amendments thereto; as used in this subsection(2)(B), "eligible counties" means the counties that did not receive the full amounts that were directed by statute to be allocated and paid to such counties from the special city and county highway fund during state fiscal years 2006, 2007 and 2008 in accordance with the applicable statutes in effect during such state fiscal years";

On page 59, in line 16, after "that" by inserting "(1)"; by striking all in lines 19 and 20; in line 21, by striking all before the period and inserting "(2) the total amount of moneys transferred from the state general fund to the state water plan fund during the fiscal year enidng June 30, 2009, shall not exceed \$2,000,000. On the effective date of this act, the director of accounts and reports shall transfer the amount in excess of \$2,000,000 which was transferred from state general fund to the state water plan fund prior to the effective date of this act during the fiscal year ending June 30, 2009, as certified by the director of the budget to the director of accounts and reports to the state general fund";

On page 60, in line 7, by striking "3.4%" and inserting "1.5%"; in line 10, by striking "and"; in line 14, before the period by inserting ", and (3) any item of appropriation for the department of education for general state aid, supplemental general state aid or special education services aid"; in line 20, by striking "3.4%" and inserting "1.5%"; in line 23, by striking "and"; in line 27, before the period by inserting ", and (3) any item of appropriation for the department of education for general state aid, supplemental general state aid or special education services aid"; in line 40 by striking all after the colon; by striking all in lines 41 through 43;

On page 61, after line 10, by inserting the following:

"Sec. 98. Section 11 of chapter 172 of the 2008 Session Laws of Kansas is hereby repealed. Sec. 99.

INSURANCE DEPARTMENT

(a) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 40-112, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$472,357 from the insurance department service regulation fund of the insurance department to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the insurance department service regulation fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the insurance department service regulation fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the insurance department by other state agencies which receive appropriations from the state general fund to provide such services.

Sec. 100.

SECRETARY OF STATE

(a) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 75-438, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$186,500 from the information and services fee fund of the secretary of state to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the information and services fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the information and services fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the secretary of state by other state agencies which receive appropriations from the state general fund to provide such services.

Sec. 101. (a) (1) On and after the effective date of this act, notwithstanding the provisions of K.S.A. 74-4927, and amendments thereto, or any other statute, no state agency shall pay to the Kansas public employees retirement system any amounts to the group insurance reserve fund attributable to the months of March, April, May, or June 2009, that constitute such state agency's portion of the state's contribution to the group insurance reserve fund under K.S.A. 74-4927, and amendments thereto.

(2) On the effective date of this act, the amount in each account of the state general fund of each state agency that is appropriated for the fiscal year ending June 30, 2009, by chapter 131, chapter 156, chapter 159, chapter 160, chapter 164, chapter 172 or chapter 184 of the 2008 Session Laws of Kansas or by this or other appropriation act of the 2009 regular session of the legislature and that is budgeted for payment to the Kansas public employees retirement system as a contribution for March, April, May and June 2009, to the group insurance

reserve fund under K.S.A. 74-4927, and amendments thereto, as certified by the director of the budget to the director of accounts and reports for fiscal year 2009, is hereby lapsed from each such account.

(3) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer the amount in each account of each special revenue fund of each state agency that is appropriated for the fiscal year ending June 30, 2009, by chapter 131, chapter 156, chapter 159, chapter 160, chapter 164, chapter 172 or chapter 184 of the 2008 Session Laws of Kansas or by this or other appropriation act of the 2009 regular session of the legislature and that is budgeted for payment to the Kansas public employees retirement system as a contribution for March, April, May and June 2009, to the group insurance reserve fund under K.S.A. 74-4927, and amendments thereto, subject to any applicable federal limitations or restrictions, as certified by the director of the budget to the director of accounts and reports for fiscal year 2009, from such special revenue fund, or account thereof, to the state general fund: Provided, That the amounts transferred from special revenue funds to the state general fund pursuant to this subsection (a)(3) are to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency involved by other state agencies which receive appropriations from the state general fund to provide such services.

(b) (1) On and after the effective date of this act, notwithstanding the provisions of K.S.A. 75-6508 or 75-6512, and amendments thereto, or any other statute, no state agency shall pay to the Kansas health policy authority any amounts specified by the Kansas state employees health care commission for employees of the state agency who are participating in the state health care benefits program, excluding any amounts prescribed under the cafeteria plan, that are attributable to the payroll periods commencing on or after March 8, 2009, and ending on or before June 13, 2009, that constitute such state agency's portion of the state's contribution for persons participating in the state health care benefits program under K.S.A. 75-6501 et seq., and amendments thereto, for such payroll periods.

(2) On the effective date of this act, the amount in each account of the state general fund of each state agency that is appropriated for the fiscal year ending June 30, 2009, by chapter 131, chapter 156, chapter 159, chapter 160, chapter 164, chapter 172 or chapter 184 of the 2008 Session Laws of Kansas or by this or other appropriation act of the 2009 regular session of the legislature and that is budgeted for payment to the Kansas health policy authority for employees of the state agency who are participating in the state health care benefits program, excluding any amounts prescribed under the cafeteria plan, that are attributable to the payroll periods commencing on or after March 8, 2009, and ending on or before June 13, 2009, under K.S.A. 75-6508, and amendments thereto, as certified by the director of the budget to the director of accounts and reports for fiscal year 2009, is hereby lapsed from each such account.

(3) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer the amount in each account of each special revenue fund of each state agency that is appropriated for the fiscal year ending June 30, 2009, by chapter 131, chapter 156, chapter 159, chapter 160, chapter 164, chapter 172 or chapter 184 of the 2008 Session Laws of Kansas or by this or other appropriation act of the 2009 regular session of the legislature and that is budgeted for payment to the Kansas health policy authority for employees of such state agency who are participating in the state health care benefits program, excluding any amounts prescribed under the cafeteria plan, that are attributable to the payroll periods commencing on or after March 8, 2009, and ending on or before June 13, 2009, under K.S.A. 75-6508, and amendments thereto, subject to any applicable federal limitations or restrictions, as certified by the director of the budget to the director of accounts and reports for fiscal year 2009, from such special revenue fund, or account thereof, to the state general fund: Provided, That the amounts transferred from special revenue funds to the state general fund pursuant to this subsection (b)(3) are to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency involved by other state agencies which receive appropriations from the state general fund to provide such services.

Sec. 102. (a) The director of accounts and reports shall not make the transfer of \$250,000 prescribed to be transferred from the state general fund to the waste tire management fund of the department of health and environment—division of environment by section 13(a)(4) of chapter 3 of the 2003 Session Laws of Kansas, which was directed to be made on or before June 30, 2009, on a date certified by the director of the budget for the purpose of repaying 25% of the amount transferred from the waste tire management fund to the state general fund pursuant to section 13(a)(1) of chapter 3 of the 2003 Session Laws of Kansas. On the effective date of this act, the provisions of section 13(a)(4) of chapter 3 of the 2003 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

(b) The director of accounts and reports shall not make the transfer of \$2,500,000 prescribed to be transferred from the state general fund to the underground petroleum storage tank release trust fund of the department of health and environment—division of environment by section 13(b)(4) of chapter 3 of the 2003 Session Laws of Kansas, which was directed to be made on or before June 30, 2009, on a date certified by the director of the budget for the purpose of repaying 25% of the amount transferred from the underground petroleum storage tank release trust fund to the state general fund pursuant to section 13(b)(1) of chapter 3 of the 2003 Session Laws of Kansas. On the effective date of this act, the provisions of section 13(b)(4) of chapter 3 of the 2003 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect. The legislature shall review the repayment of the remaining amount during fiscal year 2011."

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

On roll call, the vote was: Yeas 25, Nays 15, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Brownlee, Bruce, Colyer, Donovan, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt V, Steineger, Teichman, Umbarger, Wagle.

Nays: Apple, Barnett, Brungardt, Emler, Lynn, Marshall, McGinn, Morris, Owens, Reitz, Schmidt D, Schodorf, Taddiken, Vratil, Wysong.

The motion carried and the amendment was adopted, and ${\bf Sub}~{\bf SB}~{\bf 23}$ be passed as amended.

EXPLANATION OF VOTE

Mr. Chairman: I vote no on the amendment to **Sub SB 23** because it only saves \$125 million towards the state's billion dollar budget problem.—DAVID WYSONG

A motion by Senator Apple to amend **Sub SB 23** failed and the following amendment was rejected: as further amended by the Senate Committee of the Whole on motion of Senator Kelly, designated as FAS23g9.wpd, on page 25 of the printed version of the bill, in line 42, by adding \$6,661,087 to the dollar amount and by adjusting the dollar amount in line 42 accordingly;

By striking the language inserted by Senator Kelly on page 57, in line 39;

By striking the language inserted by Senator Kelly on page 58, in line 1;

On page 57 of the printed version of the bill, in line 42, by striking "the amount of moneys" and inserting "no moneys shall be"; in line 43, by striking ", shall not exceed";

On page 58 of the printed version of the bill, in line I, by striking all before the period Upon a showing of five hands, a roll call vote was requested.

On roll call, the vote was: Yeas 14, Nays 22, Present and Passing 2, Absent or Not Voting 2.

Yeas: Apple, Barnett, Brungardt, Emler, Lynn, Marshall, McGinn, Morris, Reitz, Schmidt D, Schodorf, Taddiken, Teichman, Wysong.

Nays: Abrams, Brownlee, Colyer, Donovan, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Masterson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Umbarger, Wagle.

Present and Passing: Bruce, Schmidt V.

Absent or Not Voting: Steineger, Vratil.

The motion failed and the amendment was rejected.

A motion by Senator Umbarger to amend Sub SB 23 was withdrawn.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were introduced and read by title:

SB 134, An act concerning court fees and costs; amending K.S.A. 2008 Supp. 8-2107, 8-2110, 23-108a, 28-170, 28-172a, 28-177, 38-2215, 38-2314, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 38-1511 and 38-1613, by Committee on Judiciary.

SB 135, An act concerning the Kansas open meetings act; relating to serial meetings; amending K.S.A. 2008 Supp. 75-4318 and repealing the existing section, by Committee on Judiciary.

SB 136, An act relating to insurance; concerning the patient protection act; prohibited provisions in agreement; amending K.S.A. 40-4607 and repealing the existing section, by Committee on Financial Institutions and Insurance.

SB 137, An act concerning viatical settlements; exempting actions by the securities commissioner from the viatical settlements act of 2002; amending K.S.A. 2008 Supp. 40-5012a and repealing the existing section, by Committee on Financial Institutions and Insurance.

SB 138, An act concerning tax increment financing; regarding bond revenue sources; amending K.S.A. 2008 Supp. 12-1770a, 12-1774, 12-17,166, 12-17,175, 79-3620 and 79-3620b and repealing the existing sections, by Committee on Commerce.

SB 139, An act relating to insurance; concerning deposits and securities; relating to the federal home loan bank; amending K.S.A. 40-2a20 and 40-2b20 and K.S.A. 2008 Supp. 40-229a and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SENATE CONCURRENT RESOLUTION No. 1604-

By Joint Committee on Arts and Cultural Resources

A CONCURRENT RESOLUTION encouraging the Kansas State Historical Society to develop a plan to commemorate the sesquicentennial of the admission of Kansas to the Union.

WHEREAS, Kansas will celebrate its 150th anniversary of statehood in 2011; and

WHEREAS, Kansas entered the Union as the 34th state when President James Buchanan signed the bill making Kansas a state on January 29, 1861; and

WHEREAS, President Abraham Lincoln, raised the 34-star flag over Independence Hall in Philadelphia on February 22, 1861, to commemorate Kansas' entry into the Union; and

WHERÊAS, Kansas has the proud distinction of being founded for the cause of abolition of slavery; and

WHEREAS, Kansas was inhabited long before it became a state and was named for the Kansa Native American tribe; and

WHEREAS, Kansas was at the center of the wagon trails heading west and benefitted from the resulting diverse population that settled and prospered; and

WHEREAS, Kansas has been at the forefront of history in pushing for greater rights for all peoples, and the protection of children; and

WHEREAS, Kansas ranchers and farmers established an industry that continues to provide food for the nation; and

WHEREAS, Kansas' innovative spirit has made the state a leader in aviation, education, medicine, science and technology; and

WHEREAS, Kansans have proudly served the country in the military since the Civil War, and

WHEREAS, Many notable Kansans have placed the state in the national spotlight, including Charles Curtis, Amelia Earhart, Dwight D. Eisenhower and William Allen White: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the Legislature encourages the Kansas State Historical Society to develop a plan for 2011 to commemorate the sesquicentennial of Kansas' admission to the Union to recognize the remarkable 150 years of Kansas history.

SENATE CONCURRENT RESOLUTION No. 1605-

By Committee on Ethics and Elections

A PROPOSITION to amend section 2 of article 5 of the constitution of the state of Kansas, relating to qualification of voters.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 2 of article 5 of the constitution of the state of Kansas is hereby amended to read as follows:

****§ 2** Disqualification to vote. The legislature may, by law, exclude persons from voting because of mental illness or commitment to a jail or penal institution. No person convicted of a felony under the laws of any state or of the United States, unless pardoned or restored to his civil rights, shall be qualified to vote."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

- "*Explanatory statement.* This amendment would authorize the legislature to permit persons with mental illness to be eligible to vote." A vote for this amendment would permit the legislature to allow persons suffering from mental illness to vote.
- "A vote against this amendment would continue the current prohibition against such persons voting."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 2010.

CHANGE OF REFERENCE

The President withdrew **SB 129** from the Committee on **Public Health and Welfare**, and referred the bill to the Committee on **Local Government**.

REPORTS OF STANDING COMMITTEES

Committee on Commerce recommends SB 35, SB 77 be passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, January 29, 2009.

Journal of the Senate

THIRTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, January 29, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-nine senators present. Senator Steineger was excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

There are some birthday presents we wish we could give Kansas on her 148th anniversary:

Plenty of rain but not too much. Safe streets and sober drivers. No drugs and no drop-outs. Unabused children and unbattered spouses. Zero unemployment. No damaging tornados. A balanced budget. No burglaries and no murders. Either K-State or KU become NCAA national basketball champions,

I am sure at least some of our aspirations exceed our expectations, but most of all we pray that Your will be done.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 140, An act relating to property taxation; enacting the senior citizen property tax deferral act, by Committee on Assessment and Taxation.

SB 141. An act concerning the division of post audit; transferring the inspector general and the office of the inspector general from the Kansas health policy authority to the division of post audit; amending K.S.A. 2008 Supp. 75-7427 and repealing the existing section, by Committee on Judiciary.

SB 142. An act concerning transportation; relating to designation of certain highway segments as safety corridors by the secretary of transportation; establishing the traffic safety corridor fund; amending K.S.A. 2008 Supp. 8-2118 and repealing the existing section, by Committee on Transportation.

SB 143, An act enacting the Kansas immigration accountability act, by Committee on Federal and State Affairs.

SB 144, An act concerning planning and zoning; dealing with certain easements; amending K.S.A. 19-2633 and 19-2961 and K.S.A. 2008 Supp. 12-752 and repealing the existing sections, by Committee on Federal and State Affairs.

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SB 145, An act regulating traffic; concerning driving in the right lane; amending K.S.A. 8-1522 and repealing the existing section, by Committee on Federal and State Affairs.

SB 146, An act concerning the Kansas public employees retirement system; relating to computation of benefits for officers and employees when the rate of computation is reduced or placed on furlough; amending K.S.A. 74-49,115 and repealing the existing section, by Committee on Ways and Means.

SB 147, An act concerning the department of health and environment; relating to HIV screening for pregnant women and newborn children; rules and regulations, by Committee on Public Health and Welfare.

SB 148, An act concerning missing elderly persons; establishing the Kansas silver alert plan, by Committee on Judiciary.

SB 149. An act concerning school districts; relating to school finance; relating to supplemental general state aid; amending K.S.A. 2008 Supp. 72-6434 and repealing the existing section, by Committee on Education.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were referred to Committees as indicated:

Commerce: SB 138. Education: SB 130, SB 131; SCR 1604. Financial Institutions & Insurance: SB 136, SB 137, SB 139. Judiciary: SB 132, SB 134, SB 135; SCR 1605. Ways and Means: SB 133.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

Sub for SB 23, An act making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010 and June 30, 2011, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2008 Supp. 55-193, 79-2978, 79-2979, 79-3425i, 79-34,156, 79-4801 and 82a-953a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 25, Nays 14, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Brownlee, Bruce, Colyer, Donovan, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt V, Teichman, Umbarger, Wagle.

Nays: Apple, Barnett, Brungardt, Emler, Marshall, McGinn, Morris, Owens, Reitz, Schmidt D, Schodorf, Taddiken, Vratil, Wysong.

Absent or Not Voting: Steineger.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I respectfully vote "No" on **Senate Substitute for SB 23**. This bill is a failure to address the fundamental budget problem we face; we are spending more than we are receiving during an economic downturn of historic proportion. In my opinion this bill will result in dramatic reduction in services to our most needy and vulnerable Kansans or a tax increase.

While I am opposed to this bill for the reasons outlined above, I am most opposed to an earmark contained within the bill. The definition of an earmark is an item placed in a budget bill at the eleventh hour for the benefit of a select few. The earmark of over \$6.6 million could be used to help fund our community mental health or reduce the waiting list for those needing developmental disabilities services. The hearts must be warmed across Kansas of the people who advocate for big government because earmarks are alive and well under the dome at our state capital. Some may say this is not an earmark but just good fiscal policy. My response is that no matter how much lipstick you put on an earmark it is still an earmark. —PAT APPLE

Senators Barnett, McGinn, Reitz, Schodorf and Vratil request the record to show they concur with the "Explanation of Vote" offered by Senator Apple on **Sub for SB 23.**

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MR. PRESIDENT: This bipartisan compromise is a small start at correcting years of bad policy. The best way to ensure the future of our state and fix our budget crisis is to grow the Kansas economy. We should be first out of the recession—not last.

We didn't have to be in this position even with this recession. Previous budgets grew several times faster than the rate of inflation. If it grew at just 5% or had a rainy day fund, we would be talking about giving every Kansas family a \$500 rebate instead of closing schools and raising taxes.

Some had months and years to make the necessary cuts, but refused to lead. By waiting, it forced more painful and unnecessary cuts that harm students, damages essential programs, and hurts our economy.

The previous version of **SB 23** hurt the neediest Kansans, closed prisons and harmed schools. It created the possibility of a major tax increase at the height of the recession which would devastate jobs.

Kansans want smaller, more effective government that encourages jobs and growth. They want us to retool how government functions so that it can serve Kansans better.

While imperfect the bipartisan compromise is a small start in the right direction.—JEFF COLYER

Senator Brownlee requests the record to show she concurs with the "Explanation of Vote" offered by Senator Colyer on **Sub for SB 23.**

MR. PRESIDENT: I vote Aye on Substitute for Senate Bill 23.

With a budget shortfall unprecedented since I began serving in the Kansas Legislature, it is more important than ever that Democrats and Republicans work in bipartisan cooperation. Unfortunately, the drafting of this bill as it left committee did not involve this cooperation.

Without a seat at the table, a majority of Senators felt it necessary to form a coalition.

Together, we drafted a bipartisan alternative that responds in part to our budget problems and has a reasonable chance of becoming law. While this bipartisan approach is based on tough choices, we strived to keep the commitment we made to K-12 education while preventing local property tax increases, to protect our most vulnerable citizens, and to maintain public safety. Essentially, we've taken the first step to finding solutions necessary to resolve our budget shortfall without causing major hardships in the midst of the current fiscal year.

Collaboration, not confrontation, is what our constituents expect and deserve from us. I urge all members of the Kansas Senate, regardless of party, to work together as we move forward in our consideration of the 2010 budget.—ANTHONY HENSLEY

Senators Faust-Goudeau, Haley, Kelly, Kultala and Lee request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **Sub SB 23.**

MR. PRESIDENT: The budget crisis we are facing now in Kansas has been years in the making—years of overspending that is. For years many of us have been warning that this day was coming and we are heartened that many now recognize the need for fiscal responsibility. The road to a balanced budget is not easy—but it is necessary and long overdue. I vote aye.—TIM HUELSKAMP

Senators Abrams, Brownlee, Haley, Kelsey and Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Huelskamp on **Sub SB 23**.

MR. PRESIDENT: I vote aye on this legislation which makes cuts to the '09 budget. This action would not be necessary had sound fiscal policy been followed in previous years. Deficit spending, as well as poor management of revenue in good economic times has brought about these difficult budget issues. Those voting for budgets in prior years need only briefly look back to see how the state got in this situation.—DENNIS PYLE

MR. PRESIDENT: Today is a historic day. Given the difficult task we have of balancing our budget, this body is about to pass **S Sub for SB 23** which results in a 3.8 million dollar tax increase.

I believe this signals to Kansans across the state this bodies willingness to increase revenues.

Today we had a bill introduced in Ways and Means that would increase fees by 50% for the state water plan fund.

I predict that this is only the beginning, and that with the passage of this tax increase the pressure for additional tax increases will only grow stronger.—MARK TADDIKEN

Senators Barnett, McGinn and Schodorf request the record to show they concur with the "Explanation of Vote" offered by Senator Taddiken on **Sub SB 23**.

REPORTS OF STANDING COMMITTEES

Committee on Education recommends SB 11 be passed.

Committee on Ethics and Elections recommends SB 43 be passed.

Committee on Federal and State Affairs recommends SB 3 be passed.

Also, **SB 29** be amended on page 3, in line 25, after "the" by inserting "planning, mapping and"; in line 26, by striking "planning, mapping," and inserting "the"; in line 38, by striking "fixed" and inserting "engineering"; also in line 38, by striking all after "works"; in line 39, by striking all before the period;

On page 12, in line 21, by striking all after "profession"; in line 22, by striking "be responsible for the"; in line 23, by striking "activities and decisions relating to"; in line 24, by striking all before "and"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **SB 51** 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 **Transportation** recommends **SB 5** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, January 30, 2009.

Journal of the Senate

FOURTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Friday, January 30, 2009—8:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with twenty-eight senators present.

Senators Barnett, Brungardt, Colyer, Donovan, Haley, Lynn, Masterson, Owens, Pyle, Schodorf, Steineger and Wysong were excused.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

As we go on celebrating The birth of our state of Kansas, Please bless all the towns between Baxter Springs and St. Francis.

We ask You to bless the towns From Hiawatha to Hugoton. And every Kansas county From rising to the setting sun.

I wasn't born in Kansas, But I've lived here fifty years. All but two of our nine children Were born in cities here.

One son graduated from K.U., A daughter from K State. Right now I wish that one of them Had attended Wichita State.

Help me when I'm praying, Lord, And let there be no doubt That I carefully prepared it, And not left anything out!

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 150, An act concerning postsecondary education; establishing the KPERS eligible educational program, by Senator Abrams.

SB 151, An act concerning medicaid; relating to charitable donations by certain persons, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated: Assessment and Taxation: **SB 140**. Education: **SB 149**. Federal and State Affairs: **SB 143**. Judiciary: **SB 141**, **SB 148**. Local Government: **SB 144**. Public Health and Welfare: **SB 147**. Transportation: **SB 142**, **SB 145**. Ways and Means: **SB 146**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS CRIMINAL CODE RECODIFICATION COMMISSION January 9, 2009

The 2008 Interim Report to the Kansas Legislature was submitted by Professor Tom Stacy, Chairman, and Ed Klumpp, Vice-Chairman.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Monday, February 2, 2009.

Following adjournment, the Senate heard a special presentation for Kansas Day in recognition of the upcoming celebration of Lincoln's 200th birthday. The historical presentation was given by Tom Leahy as Abraham Lincoln. Mr. Leahy, a public school teacher from Conway Springs, Kansas, has performed his Lincoln at the Fenton Museum in Jamestown, New York, at the Mahaffie Stage Coach in Olathe, Freedom Festival in Osawatomie, Civil War Days in Humboldt, for public schools and churches in Conway Springs and for the Wichita Sons of Union Veterans in Wichita. He will also appear at Constitution Hall as part of the Bleeding Kansas series. Mr. Leahy can also be seen in the docudrama "Bloody Dawn", playing the role of William Quantrill.

Journal of the Senate

FIFTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Monday, February 2, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-eight senators present. Senators Hensley and Pyle were excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Last week I was thinking About what I should pray. A sense of humor crossed my mind, But is this the appropriate day?

There's so much on their mind, O God, With controversial bills; Perhaps each waking moment Is probably more than filled.

On the other hand . . . It may be just the time Humor is what they need To loosen everybody up, Even help them to succeed.

So when the mood gets tense And tempers start to flare, I pray that someone will step in And spread some humor there.

And if I may be bold, O God, If there's anyone who can; It's the Senator in charge of humor, Senator Donovan is the man!

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 152, An act concerning motor carriers; relating to regulation thereof; amending K.S.A. 2008 Supp. 66-1,129 and repealing the existing section, by Committee on Transportation.

SB 153, An act concerning motor vehicles; concerning the regulation thereof; relating to motor carriers; amending K.S.A. 2008 Supp. 66-1,108 and 66-1,109 and repealing the existing sections, by Committee on Transportation.

SB 154, An act concerning civil procedure; relating to habeas corpus; infectious disease; amending K.S.A. 60-1505 and repealing the existing section, by Committee on Judiciary.

SB 155. An act concerning the secretary of health and environment; relating to powers and duties; fingerprinting and criminal history records checks for certain employees; amending K.S.A. 65-2402 and repealing the existing section, by Committee on Judiciary.

SB 156, An act concerning corporations; relating to close corporations; amending K.S.A. 17-7207 and repealing the existing section, by Committee on Judiciary.

SB 157, An act relating to drivers' licenses; concerning driver improvement clinics; providing for the disposition of certain moneys; amending K.S.A. 2008 Supp. 8-255 and 8-267 and repealing the existing sections, by Committee on Judiciary.

SB 158, An act concerning driver's licenses; relating to restrictions for certain persons; amending K.S.A. 2008 Supp. 8-2110 and repealing the existing section, by Committee on Judiciary.

SB 159. An act concerning tobacco; relating to the enforcement of the laws regarding the sale of cigarettes; amending K.S.A. 50-6a04 and repealing the existing section, by Committee on Judiciary.

SB 160, An act concerning the minimum wage and maximum hours law; amending K.S.A. 44-1203 and repealing the existing section, by Senators Francisco, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kutala, Reitz, Steineger and Wysong.

SB 161, An act concerning recreation commissions; amending K.S.A. 2008 Supp. 12-1928 and repealing the existing section, by Committee on Education.

SB 162, An act concerning school districts; relating to disability history and awareness, by Committee on Education.

SB 163, An act amending the consumer protection act; amending K.S.A. 50-624 and 50-626 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SB 164, An act concerning municipalities; concerning official newspapers and official municipality internet web sites; amending K.S.A. 12-1651 and 64-101 and repealing the existing sections, by Committee on Ways and Means.

SB 165, An act concerning the state water plan fund; relating to increasing fees that contribute to the fund; amending K.S.A. 70a-102 and K.S.A. 2008 Supp. 2-1205, 2-2204, 82a-954 and 82a-2101 and repealing the existing sections, by Committee on Ways and Means.

SB 166, An act repealing K.S.A. 2008 Supp. 39-7,121b; relating to medication for medicaid recipients, by Committee on Ways and Means.

SB 167. An act concerning public health; relating to hospitals and related facilities; increasing the enforceable limit of a hospital lien; amending K.S.A. 65-406 and repealing the existing section, by Committee on Ways and Means.

SB 168, An act concerning electronic transactions; making certain acts unlawful; amending K.S.A. 16-1617 and repealing the existing section, by Committee on Ways and Means.

SB 169, An act concerning the Kansas act against discrimination; relating to sexual orientation; gender identity; amending K.S.A. 44-1001, 44-1002, 44-1004, 44-1006, 44-1009, 44-1015, 44-1016, 44-1017, 44-1027 and 44-1030 and K.S.A. 2008 Supp. 44-1005 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 170, An act providing for establishment of a data bank of available interpreters for certain purposes and development of qualifications for interpreters, by Committee on Public Health and Welfare.

SB 171, An act concerning Sherman county; pertaining to the election of county commissioners; amending K.S.A. 19-201, 19-202, 19-203, 19-204 and 19-204a and repealing the existing sections, by Senator Ostmeyer.

SB 172, An act amending the Kansas insurance score act; relating to prohibited acts; amending K.S.A. 2008 Supp. 40-5104 and repealing the existing section, by Committee on Ways and Means.

SB 173, An act relating to the state health care benefits program; concerning certain retired officers and employees; amending K.S.A. 2008 Supp. 75-6501 and repealing the existing section, by Committee on Ways and Means.

SB 174, An act concerning group life insurance; removing mandatory participation requirements; amending K.S.A. 2008 Supp. 40-433 and repealing the existing section, by Committee on Ways and Means.

SB 175, An act concerning school districts; relating to the powers and duties thereof, by Senator McGinn.

SENATE CONCURRENT RESOLUTION No. 1606-

- By Senators Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle and Wysong
- A CONCURRENT RESOLUTION regarding the Kansas Legislature's opposition to the relocation of the Guantanamo Bay detainees to Ft. Leavenworth, Kansas or elsewhere within Kansas and urging the President of the United States and other members of the federal executive branch, to not consider Ft. Leavenworth or elsewhere in Kansas as a potential site for the relocation of the Guantanamo Bay detainees.

WHEREAS, Leavenworth County and the cities of Leavenworth and Lansing, Kansas and the State of Kansas strongly oppose the relocation of the Guantanamo detainees to Fort Leavenworth, Kansas; and

WHEREAS, The Military Disciplinary Barracks at Fort Leavenworth, unlike Guantanamo Bay, is not isolated from the surrounding civilian population, and would pose numerous safety, security, and economic hardships on all of Leavenworth County, and would negatively impact the municipal services, the local economy, and the security of the cities of Leavenworth and Lansing and the state of Kansas; and

WHEREAS, Increased security of Fort Leavenworth would close Fort facilities that are now available for some use by the civilian community, including Sherman Airfield which is the only public use airport in Leavenworth County and the Munson clinic and other facilities that are used by veterans, military retirees and the public; and

WHEREAS, Security concerns also include the fact that railroad right-of-way that trains use crosses through the Fort property; the Fort is small and houses over 3,000 residents; there are no emergency medical services or surgical services at the Fort and the only clinic is utilized by active duty soldiers, retirees and their families for medical care; the two small hospitals in town and the veterans facilities are not equipped to handle the security associated with serving Guantanamo Bay detainees; and

WHEREAS, Security concerns would not only be felt locally, but also throughout the Kansas metropolitan areas and the state of Kansas by becoming a high profile target for terrorism as a result of such relocation; and

WHEREAS, The Leavenworth County Sheriff's Office, as well as the Leavenworth and Lansing Police Departments are not fully capable of handling an international terrorist incident and the inevitable non-violent protests that would occur outside the Fort's gates since protests are not allowed on military institutions; and

WHEREAS, The Leavenworth Community has, from its inception, embraced Fort Leavenworth and neither the community nor the post could exist without each entity's support and the local economy is dependent on the families who are stationed at the Fort to further their academic enrichment; and

WHEREAS, Fort Leavenworth has always served a dual-mission, because the Command and General Staff College and the Military Barracks are both located on post; it is critical to keep education as the primary focus of this installation and if Guantanamo Bay detainees are relocated to Fort Leavenworth the growth of the installation would cease and future expansion of military educational services would not occur; and

WHEREAS, 2009 marked the 100th year anniversary of the International Military Student program at Fort Leavenworth; the program can trace its inception back to 1894 and graduated its first international student in 1908; over the past century, 25 graduates have become Heads of State, 300 have become head of their nation's military and over 2,000 have become Generals; as a result there are military and political leaders around the world who were schooled at Fort Leavenworth, lived in the city adjacent to the Fort and made lifelong American friends; it is crucial, especially in the present state of international relations, that the international officers program at Fort Leavenworth remain strong and vital and if Guantanamo Bay detainees are relocated to Fort Leavenworth, many counties will not send military students and their families to America, impairing a significant contribution to international peace and understanding; and WHEREAS, The Military Disciplinary Barracks at Fort Leavenworth is a conventional

WHEREAS, The Military Disciplinary Barracks at Fort Leavenworth is a conventional prison with only a handful of segregation units and most prisoners in large pods containing cells opening into a common area and it would be highly inappropriate to house foreign detainees with United States military prisoners; and

WHEREAS, The state, counties and cities have the responsibility for the safety of our citizens, local schools, businesses, and mutual aid for surrounding communities related to the detainee prison facility being located in Kansas and opposed the likely changes and relocation of the Command and General Staff College; the restricted access the relocation could cause for railroad traffic, and the increased negative publicity for the community from potential sympathizers of the detainees: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the Kansas legislature strongly opposes the relocation of the Guantanamo Bay detainees to Fort Leavenworth, Kansas or elsewhere within Kansas and that the Legislature underscores its commitment to provide any and all support necessary to ensure the Guantanamo Bay detainees are not moved to Kansas.

Be it further resolved: That the Secretary of State provide enrolled copies of this resolution to President Obama, Vice President Biden, the Kansas congressional delegation, and Governor Kathleen Sebelius.

On emergency motion of Senator D. Schmidt, SCR 1606 was adopted by voice vote.

Leavenworth guests introduced by Senator Kultala were Heather Morgan, Scott Miller, Ken Bernard, Lisa Weekly, Terry Weekly and Laura Gasbarre.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated: Education: **SB 150**. Ways and Means: **SB 151**.

CHANGE OF REFERENCE

The President withdrew **SB 141** from the Committee on **Judiciary**, and referred the bill to the Committee on **Ways and Means**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS ATTORNEY GENERAL Abuse, Neglect and Exploitation Unit

January 29, 2009

Pursuant to KSA 75-723, Camie K. Russell, Director, submitted a hard copy and CD of the Annual Report to the Legislature for the period July 1, 2007 to June 30, 2008, of the ANE Unit, in the Office of Kansas Attorney General Steve Six.

KANSAS CORPORATION COMMISSION

Utilities Division

January 30, 2009

Pursuant to the provisions of KSA 66-117b, Thomas E. Wright, Chairman, submitted the Annual Report to the 2009 Legislature. This report can be viewed on the website at http://ks.gov/09_legis_rpt.pdf.

KANSAS GUARDIANSHIP PROGRAM

January 30, 2009

On behalf of the Board and staff of the Kansas Guardianship Program, Judge Frank J. Yeoman, Jr., submitted the 2008 Annual Report. The President announced the above reports are on file in the office of the Secretary of the Senate and are available for review at any time.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator D. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1808-

A RESOLUTION congratulating and commending the West Elk High School boys' track and field team.

WHEREAS, The West Elk High School boys' track and field team won the 2008 Class 2A State Championship with 47 points; and

WHEREAS, The 2008 Class 2A State Championship was the first state title ever won by West Elk High School in any sport; and

WHEREAS, West Elk won the 2A state title with the help of the four gold medals won by junior Sonny Lee and senior Taylor Lowe; and

WHEREAS, Junior Sonny Lee won the 200 meter in 23.04 seconds, the 400 meter in 49.03 seconds and the high jump with a leap of 6 feet and 4 inches giving him a total of three gold medals; and

WHEREAS, Senior Taylor Lowe won a gold medal in the long jump with a jump of 20 feet and $10\,\%$ inches; and

WHEREAS, West Elk also received some points in the tournament from Brett Koop's fifth place distance in the long jump of 20 feet $2\frac{3}{4}$ inches and his fourth place distance in the triple jump of 42 feet $4\frac{1}{2}$ inches; and

WHEREAS, West Elk overcame the mid-tournament injury of Taylor Lowe with James Lear filling in for him in the 4x100 meter relay, helping C.J. Madison, Shane Hall and Sonny Lee earn an eighth place finish in the event; and

WHEREAS, West Elk has been led by the experience and wisdom of head coach Pat Simmons and assistant track coach Debbie Simmons; and

WHEREAS, Track and field is one of the more grueling high school sports, requiring these outstanding athletes to dedicate many hours to training: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the West Elk High School boys' track and field team and coach Simmons for being the 2008 Class 2A State Champions and bringing home the first ever state title to West Elk; and

Be it further resolved: That the Secretary of the Senate provide 15 enrolled copies of this resolution to Senator Schmidt for presentation to the West Elk boys' track and field team.

On emergency motion of Senator D. Schmidt SR 1808 was adopted unanimously.

Team members Kyle Huntington, Charlie Hall, Shane Hall, James Lear, Tanner Weber, Taylor Lowe, Bailey Adams, Sonny Lee, Lucas Simmons, C.J. Madison, Jason Ledford, Head Coach Pat Simmons and Assistant Track Coach Pat Simmons were recognized with a standing ovation.

Senator Barnett introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1809-

A RESOLUTION recognizing Justin Cessna for bringing the issue of health care provider coverage of bariatric surgical procedures to the attention of the Kansas Legislature and thanking the individuals who helped him receive this life-saving procedure.

WHEREAS, Bariatric surgery refers to the various surgical procedures performed to treat obesity by modification of the gastrointestinal tract to reduce nutrient intake and absorption; and

WHEREAS, During the 2008 Session, Justin Cessna brought the issue of health care provider coverage of bariatric surgical procedures to the Kansas Legislature, leading to the passage of House Bill 2672; and

WHEREAS, Justin Cessna was told by his doctors that unless he had a bariatric surgical procedure performed his life was at risk; and

WHEREAS, Medical studies have shown that long-term total mortality after bariatric surgery is significantly reduced, particularly for mortality rates from diabetes and heart disease; and

WHEREAS, Justin Cessna's bariatric surgical procedure was only made possible by the generosity of Dr. Bernita Berntsen of Tallgrass General, Vascular and Bariatric Surgery, who performed the surgery; Dr. James Hamilton, who advocated for Mr. Cessna and provided the surgical band for the procedure; Dr. David Bishop, who was the anesthesiologist for the procedure; and Michael Schrader, the President and CEO of St. Francis Health Center, who provided the facilities necessary for the procedure; and

WHEREAS, As a result of Justin Cessna's willingness to set aside his right to privacy to put a human face on the plight of the morbidly obese, Mr. Cessna not only received a lifesaving procedure through the generosity of these individuals, but he has brought the issue of health care provider coverage of bariatric surgical procedures to the public's attention: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize Justin Cessna for bringing the issue of health care provider coverage of bariatric surgical procedures to the attention of the Kansas Legislature and that we thank those individuals whose generosity enabled him to receive this life-saving procedure.

Be it further resolved: That the Secretary of the Senate is directed to provide 6 enrolled copies of this resolution to Senator Barnett.

On emergency motion of Senator Barnett SR 1809 was adopted unanimously.

Senator Barnett introduced Justin Cessna and his son, Joshua, along with Dr. Bernita Berntsen, Dr. James Hamilton and Michael Schrader. Senators joined him in honoring them with a standing ovation.

REPORT ON ENGROSSED BILLS

Sub SB 23 reported correctly engrossed January 30, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Public Health and Welfare recommends SB 82 be passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, February 3, 2009.

Journal of the Senate

SIXTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Tuesday, February 3, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

If a legislator was asked "What is your most needed provision?" More than likely the answer would be, "The ability to make wise decisions."

But the question immediately arises, "What do you mean by 'wise' "? If we look for the best definition, You may be in for a surprise.

In the third chapter of the book of James (3:17) There are eight words made very clear: Pure, peaceful, considerate, submissive, Merciful, fruitful, impartial, sincere.

So it's obvious wisdom involves much more Than a simple definition. If your decision doesn't measure up, Then it can't be a wise decision.

Lord, help us to measure ourselves, Do our decisions involve eight descriptions? If not, they don't measure up To truly wise decisions.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were introduced and read by title:

SB 176, An act concerning the state board of regents; relating to the election of the members thereof; amending K.S.A. 25-101, 25-101a, 25-212, 25-617, 25-1116, 25-1118, 25-2503, 25-2505, 25-3905, 25-3906, 25-4001, 25-4153, 25-4304 and 74-3202a and K.S.A. 2008 Supp. 25-205, 25-213, 25-611, 25-3107, 25-3902a and 25-4119f and repealing the existing sections, by Senator Pilcher-Cook.

SB 177, An act concerning income taxation; relating to credits; adoption expenses; amending K.S.A. 2008 Supp. 79-32,202 and repealing the existing section, by Committee on Assessment and Taxation.

SB 178, An act concerning amusement rides; amending K.S.A. 2008 Supp. 44-1601 and repealing the existing section, by Committee on Federal and State Affairs.

SB 179, An act concerning racial and other profiling; relating to the governor's task force, adoption of policies against and investigation of complaint; amending K.S.A. 22-4606, 22-4607, 22-4609, 22-4610 and 22-4611 and K.S.A. 2008 Supp. 74-9501 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 180, An act concerning the Kansas cigarette and tobacco products act; relating to certain unlawful acts; self-service displays; amending K.S.A. 2008 Supp. 79-3301 and 79-3321 and repealing the existing sections, by Committee on Public Health and Welfare.

SB 181, An act relating to insurance; concerning mental health parity; amending K.S.A. 2008 Supp. 40-2,105, 40-2,105a and 40-2258 and repealing the existing sections, by Committee on Public Health and Welfare.

SB 182, An act concerning air quality; relating to urban counties; regulation of diesel emissions, by Committee on Natural Resources.

SB 183, An act concerning solid waste; relating to management plans; amending K.S.A. 2008 Supp. 65-3410 and repealing the existing section, by Committee on Natural Resources.

SB 184, An act enacting the Kansas surface owner notice act; relating to oil and gas operations; state corporation commission, by Committee on Natural Resources.

SB 185, An act concerning water rights; relating to abandonment and termination; due and sufficient cause for nonuse; amending K.S.A. 2008 Supp. 82a-718 and repealing the existing section, by Committee on Agriculture.

SB 186, An act concerning the offices of the governor and lieutenant governor; relating to vacancies therein, by Senator Pyle.

SB 187, An act enacting the state fire marshal commissioned inspector act, by Committee on Ways and Means.

SB 188, An act concerning civil procedure; relating to wage garnishment; amending K.S.A. 60-2310 and repealing the existing section, by Committee on Ways and Means.

SB 189, An act concerning the secretary of commerce; creating an outfitter license; prescribing requirements therefor, by Committee on Natural Resources.

SB 190, An act concerning election crimes; amending K.S.A. 25-2425 and repealing the existing section, by Senator Haley.

SB 191, An act concerning electronic voting machines; requiring a verifiable paper trail; amending K.S.A. 2008 Supp. 25-4406 and repealing the existing section, by Senators Haley and Faust-Goudeau.

SB 192, An act concerning income taxation; relating to credits; motor-fuel taxes paid by certain persons, by Senator Pyle.

SENATE CONCURRENT RESOLUTION No. 1607-

By Committee on Assessment and Taxation

A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the definition of public utility.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 1 of article 11 of the constitution of the state of Kansas is hereby amended to read as follows:

"§ 1. System of taxation; classification; exemption. (a) The provisions of this subsection shall govern the assessment and taxation of property on and after January 1, 1993, and each year thereafter. Except as otherwise hereinafter specifically provided, the legislature shall provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation. The legislature may provide for the classification and the taxation uniformly as to class of recreational vehicles, as

defined by the legislature, or may exempt such class from property taxation and impose taxes upon another basis in lieu thereof. The provisions of this subsection shall not be applicable to the taxation of motor vehicles, except as otherwise hereinafter specifically provided, mineral products, money, mortgages, notes and other evidence of debt and grain. Property shall be classified into the following classes for the purpose of assessment and assessed at the percentage of value prescribed therefor:

Class 1 shall consist of real property. Real property shall be further classified into seven subclasses. Such property shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

asse	essed uniformly as to subclass at the following percentages of value:	
(1)	Real property used for residential purposes including multi-family res-	
	idential real property and real property necessary to accommodate a	
	residential community of mobile or manufactured homes including the	
	real property upon which such homes are located	111/2%
(2)	Land devoted to agricultural use which shall be valued upon the basis	11/2/0
(2)	of its agricultural income or agricultural productivity pursuant to section	
	12 of article 11 of the constitution	200
$\langle \mathbf{a} \rangle$	12 of article 11 of the constitution	30%
(3)	Vacant lots	12%
(4)	Real property which is owned and operated by a not-for-profit organi-	
	zation not subject to federal income taxation pursuant to section 501 of	
	the federal internal revenue code, and which is included in this subclass	
	by law	12%
(5)	Public utility real property, except railroad real property which shall be	
(-)	assessed at the average rate that all other commercial and industrial	
	property is assessed	33%
(6)	Real property used for commercial and industrial purposes and build-	0070
(0)	Real property used for commercial and industrial purposes and build-	
	ings and other improvements located upon land devoted to agricultural	250
(-)	use	25%
(7)	All other urban and rural real property not otherwise specifically sub-	
	classified	30%
C	lass 2 shall consist of tangible personal property. Such tangible personal p	property shall
be f	further classified into six subclasses, shall be defined by law for the purpos	se of subclas-
sific	ation and assessed uniformly as to subclass at the following percentages of	f value:
(1)	Mobile homes used for residential purposes	111/2%
(2)	Mineral leasehold interests except oil leasehold interests the average	11/2/0
(Δ)	Wineral leasenoid interests except on leasenoid interests the average	
	deile and destion from which is fine housed on loss and noticed goal loss	
	daily production from which is five barrels or less, and natural gas lease-	
	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or	200
	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25%	30%
(3)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof,	30%
(3)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which	30%
(3)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial	30%
(3)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed.	30% 33%
	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed.	
(3) (4)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed	
(4)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed	33%
	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed	33%
(4)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 Commercial and industrial machinery and equipment which, if its ec- onomic life is seven years or more, shall be valued at its retail cost when	33%
(4)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 Commercial and industrial machinery and equipment which, if its ec- onomic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic	33%
(4)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 Commercial and industrial machinery and equipment which, if its ec- onomic life is seven years or more, shall be valued at its retail cost when new less shan seven years, shall be valued at its retail cost when new	33%
(4)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 Commercial and industrial machinery and equipment which, if its ec- onomic life is seven years or more, shall be valued at its retail cost when new less straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the	33%
(4)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 Commercial and industrial machinery and equipment which, if its ec- onomic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding its economic life	33%
(4)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed	33% 30%
(4) (5)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed	33%
(4)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed	33% 30% 25%
(4)(5)(6)	daily production from which is five barrels or less, and natural gas lease- hold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed	33% 30% 25% 30%

(b) All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, farm machinery and equipment, merchants' and manufacturers' inventories, other than public utility inventories included in subclass (3) of class 2, livestock, and all household goods and personal effects not used for the production of income, shall be exempted from property taxation.

(c) For purposes of this section, the term "public utility" shall include every person or entity, regardless of residence or domicile or jurisdiction of the state corporation commission or other regulatory body, that owns, controls or holds for resale natural gas that is stored or delivered for storage in an underground formation in this state. The legislature shall have the authority from time to time to redefine the term "public utility" for purposes of subclassification and taxation under this article."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

- "Explanatory statement. The purpose of this amendment is to define public utility for property tax purposes to include a person or entity regardless of where the tax-payer resides or is domiciled or jurisdiction of the state corporation commission to include any such person or entity who owns, controls or holds natural gas for resale which is stored or delivered for storage underground, and allow the leg-islature to redefine such term.
- "A vote for this amendment would subject a person or entity who owns, controls or holds natural gas for resale which is stored or delivered for storage underground to property taxation as a public utility regardless of where the taxpayer resides or domiciles or jurisdiction of the state corporation commission." A vote against this amendment would make no changes in current law providing a property tax exemption for such person or entity."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 2010 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors.

SENATE CONCURRENT RESOLUTION No. 1608-

By Committee on Federal and State Affairs

A PROPOSITION to amend article 15 of the constitution of the state of Kansas by adding a new section thereto, concerning equal rights for men and women.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 15 of the constitution of the state of Kansas is amended by adding a new section thereto to read as follows:

"§ 17. Equal rights. Equality of rights under the law shall not be denied or abridged by the state or any of its political or taxing subdivisions on account of sex."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

- "*Explanatory statement.* There is currently no constitutional provision specifically addressing equal rights of men and women. There are laws that prohibit discrimination in employment, housing and wages based on sex.
- "A vote for this proposition would amend the Kansas constitution to incorporate into it the prohibition of discrimination based on sex. The proposed constitutional amendment would prohibit the state or any of its political or taxing subdivisions from enacting laws discriminating against men or women based on sex.

"A vote against this proposition would not amend the constitution, in which case the current laws would remain unchanged but could be amended by future acts of the legislature or its political or taxing subdivisions or modified by judicial interpretation."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2010.

REFERENCE OF BILLS AND CONCURRTENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **SB 160**. Education: **SB 161, SB 162, SB 175**. Ethics and Elections: **SB 168, SB 171**. Federal and State Affairs: **SB 169**. Financial Institutions & Insurance: **SB 163, SB 167, SB 172, SB 174**. Judiciary: **SB 154, SB 155, SB 156, SB 157, SB 158, SB 159**. Local Government: **SB 164**. Public Health and Welfare: **SB 166, SB 170, SB 173**. Transportation: **SB 152, SB 153**. Ways and Means: **SB 165**.

COMMUNICATIONS FROM STATE OFFICERS

OFFICE OF THE STATE BANK COMMISSIONER

January 30, 2009

Pursuant to subsection (c) of KSA 9-1715, J. Thomas Thull, Bank Commissioner, submitted a report concerning issuance of Special Order 2009-1, which provides state banks with the authority to issue preferred stock in par value amounts that the commissioner approves. The order was required to ensure that state chartered banks are able to participate in the Treasury's Capital Purchase Program to the same extent as national banks.

KANSAS DEVELOPMENT FINANCE AUTHORITY

February 3, 2009

In an ongoing effort to provide timely information regarding the governmental debt composition, Steve Weatherford, President, submitted the 2008 Kansas Debt Study prepared by the Kansas Development Finance Authority.

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES AND THE DEPARTMENT ON AGING

February 3, 2009

In accordance with **SB 365**, Don Jordan, Secretary, SRS, and Kathy Greenlee, Secretary, KDOA, submitted the annual report on the long term care system in Kansas.

The President announced the above reports are on file in the office of the Secretary of the Senate and are available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of SCR 1601, as amended.

FINAL ACTION ON CONSENT CALENDAR

SB 5, SB 51 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

SB 5, An act designating part of United States highway 160 as the 1011th Quartermaster Co. U.S. Army Reserve memorial highway.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 51, An act concerning wildlife and parks; relating to clothing requirements while hunting deer or elk; amending K.S.A. 32-1015 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 1** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Judiciary** recommends **SB 6** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 6," as follows:

"Substitute for SENATE BILL No. 6

By Committee on Judiciary

"AN ACT amending the charitable organizations and solicitations act; concerning professional fund raisers; amending K.S.A. 17-1766 and repealing the existing section.";

and the substitute bill be passed.

Also, **SB 26** be amended on page 4, in line 40, by striking "60" and inserting "12"; in line 41, by striking "84" and inserting "15"; in line 43, by striking "120" and inserting "24";

On page 5, in line 3, by striking all after the period; by striking all in lines 4 through 8; after line 10, by inserting the following:

"(4) For purposes of this subsection, the term "brandish" means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person."; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 102** be amended on page 1, in line 23, by striking "gratuitously and"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 93** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

REMOVE FROM CONSENT CALENDAR

An objection having been made to **SB 93** appearing on the Consent Calendar, the President directed the bill be removed and placed on the calendar under the heading of General Orders.

COMMITTEE OF THE WHOLE

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

On motion of Senator Barnett, the following report was adopted:

Recommended SB 3, SB 35, SB 40, SB 41, SB 43, SB 50, SB 77 be passed.

SB 29 be amended by adoption of the committee amendments, and the bill be passed as amended.

Senator Schodorf moved to amend **SB 11**, on page 1, by striking all in lines 14 and 15; in line 16, by striking "Sec. 2." and inserting "Section 1.";

And by renumbering the remaining sections accordingly;

On page 5, following line 16, by inserting:

"For the purposes of this subsection, "service area" means designated geographic areas of the state established pursuant to agreement of the presidents of the community colleges and adopted in policy by the state board of regents." and **SB 11** be passed as amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and SB 3, SB 11, SB 29, SB 35, SB 40, SB 41, SB 43, SB 50, SB 77 were advanced to Final Action and roll call.

SB 3, An act concerning the confirmation oversight committee; relating to the membership thereof; amending K.S.A. 2008 Supp. 46-2601 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Pyle.

The bill passed.

SB 11, An act concerning postsecondary institutions; relating to community colleges and the powers and duties thereof; amending K.S.A. 2008 Supp. 71-201 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 29, An act concerning the state board of technical professions; relating to licensure; amending K.S.A. 74-7003, 74-709, 74-7013, 74-7018, 74-7021, 74-7022, 74-7023, 74-7025, 74-7026, 74-7029, 74-7031, 74-7034, 74-7036 and 74-7041 and repealing the existing sections; also repealing K.S.A. 74-7043, 74-7043, 74-7044 and 74-7045.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Pilcher-Cook, Pyle.

The bill passed, as amended.

SB 35, An act concerning municipal bonds; interest rates; amending K.S.A. 2008 Supp. 10-1009 and repealing the existing section.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Huelskamp, Ostmeyer, Pilcher-Cook, Pyle.

The bill passed.

SB 40, An act repealing K.S.A. 2008 Supp. 72-9910 and 72-9911; relating to the at-risk education council.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0. Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 41, An act repealing K.S.A. 72-67,106, 72-8149, 72-8155, 72-8155a, 72-8155b and 72-8155c; relating to certain school districts and the powers and duties thereof.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 43, An act concerning elections; relating to campaign finance; amending K.S.A. 25-4153 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 50, An act concerning insurance; pertaining to risk-based capital requirements; establishing a trend test calculation; amending K.S.A. 40-2c05 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 77, An act concerning the state use law committee; date for expiration thereof; amending K.S.A. 2008 Supp. 75-3322c and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, February 4, 2009.

Journal of the Senate

SEVENTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, February 4, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-nine senators present. Senator Wysong was excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I want to thank You for the book of Proverbs. Especially for some of my favorites: The man of integrity walks securely, but he who takes crooked paths will be found out.

When words are many, sin is not absent, but he who holds his tongue is wise. The integrity of the upright guides them, but the unfaithful are destroyed by their duplicity.

For lack of guidance a nation falls, but many advisors make victory sure. One man gives freely, yet gains even more; another withholds unduly, but comes to poverty.

The Lord detests lying lips, but He delights in men who are truthful. He who walks with the wise grows wise, but a companion of fools suffers harm. A simple man believes anything, but a prudent man gives thought to his steps.

A patient man has great understanding, but a quick-tempered man displays folly. Righteousness exalts a nation, but sin is a disgrace to any people.

I thank You in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 193, An act concerning elections; pertaining to vacancy in the office of United States senator; amending K.S.A. 25-318 and repealing the existing section, by Senator Pyle.

SB 194, An act concerning school districts; relating to school finance; relating to the atrisk weighting; amending K.S.A. 2008 Supp. 72-6407 and 72-6414 and repealing the existing sections, by Legislative Committee on Post Audit.

SB 195, An act relating to insurance; providing reimbursement for orally administered anticancer medications; amending K.S.A. 2008 Supp. 40-2,103 and 40-19c09 and repealing the existing sections, by Senator Wagle.

SB 196, An act concerning retirement and pensions; relating to employment after retirement; retirants employed by third-party entities; amending K.S.A. 2008 Supp. 74-4914 and repealing the existing section, by Joint Committee on Pensions, Investments and Benefits.

SB 197, An act concerning property taxation; relating to valuation and assessment; amending K.S.A. 79-411, 79-501, 79-5a04 and 79-1439a and K.S.A. 2008 Supp. 79-412, 79-

1439, 79-1448 and 79-1606 and repealing the existing sections, by Senators Pilcher-Cook, Brownlee, Huelskamp, Masterson, Petersen and Wagle.

SB 198, An act concerning counties; relating to the establishment of county consolidation commission, by Senator Steineger.

SB 199, An act concerning state agencies; relating to expenditures thereof, by Senator Hensley.

SB 200, An act concerning board of healing arts; relating to regulations of certain allied health professionals; amending K.S.A. 65-2006, 65-2014, 65-28a01, 65-28a05, 65-5401, 65-5501, 65-7201 and 65-7204 and K.S.A. 2008 Supp. 65-2910, 65-2912, 65-2922, 65-5410, 65-5510, 65-6901, 65-7208, 65-7301 and 65-7313 and repealing the existing sections, by Committee on Public Health and Welfare.

SB 201, An act concerning the display of the flag of the United States at half-staff, by Senators Haley, Apple, Barnett, Bruce, Faust-Goudeau, Hensley, Holland, Kelly, Kelsey, Marshall, Masterson, Petersen, D. Schmidt and Schodorf.

SB 202, An act concerning abortion; amending K.S.A. 65-445 and 65-6703 and repealing the existing sections, by Senator Taddiken.

SB 203, An act concerning the secretary of agriculture; relating to powers and duties; amending K.S.A. 36-515 and K.S.A. 2008 Supp. 36-503, 36-510 and 74-598 and repealing the existing sections, by Committee on Agriculture.

SB 204, An act concerning the secretary of agriculture; relating to food safety and lodging; disposition of moneys; creating the food safety and lodging fee fund; amending K.S.A. 2008 Supp. 74-591 and repealing the existing section; also repealing K.S.A. 2008 Supp. 36-512, by Committee on Agriculture.

SB 205, An act concerning the development finance authority; relating to the refunding of bonds; amending K.S.A. 2008 Supp. 74-8905 and repealing the existing section, by Committee on Ways and Means.

SB 206, An act amending the Kansas insurance score act; definitions; amending K.S.A. 2008 Supp. 40-5103 and repealing the existing section, by Senators Faust-Goudeau, Kelsey and Masterson.

SB 207, An act making and concerning appropriations for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, and June 30, 2014, for the department on aging, the department of social and rehabilitation services and the department of health and environment—division of health; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Ways and Means.

SB 208, An act concerning abolition of the death penalty; amending K.S.A. 21-3105, 21-4364, 21-4634, 21-4635, 21-4706, 22-3405, 22-3705, 22-3717, 22-4210, 22-4505 and 22-4506 and K.S.A. 2008 Supp. 21-4619, 22-4902, 38-2255, 38-2271, 38-2312, 38-2365, 39-970, 65-5117 and 75-52,148 and repealing the existing sections; also repealing K.S.A. 21-3439, 21-4622, 21-4623, 21-4624, 21-4627, 21-4629, 21-4630 and 22-3704, by Committee on Ways and Means.

SB 209, An act concerning teachers; relating to the licensure thereof, by Senator Kelsey. SB 210, An act concerning elections; relating to election commissioners; amending K.S.A. 19-3419 and repealing the existing section, by Senators Hensley and Kultala.

SB 211, An act concerning journalists; providing a privilege with regard to certain disclosures of information, by Senators D. Schmidt and Hensley.

SB 212, An act concerning alcoholic beverages; concerning shipment of wines, by Committee Federal and State Affairs.

SB 213, An act concerning alcoholic liquor; regarding consumption of alcoholic liquor in public; amending K.S.A. 2008 Supp. 41-719 and 41-2645 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 214, An act concerning the secretary of health and environment; relating to disposal of certain solid waste; task force, by Committee on Natural Resources.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS CORPORATION COMMISSION

January 30, 2009

Pursuant to KSA 2008 Supp. 66-2005 as amended by **SB 350** and **HB 2637**, Thomas E. Wright, Chairman, submitted a Report on Price Deregulation.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of HB 2026, HB 2052; HCR 5008.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2026, HB 2052; HCR 5008 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator D. Schmidt the Senate nonconcurred in the House amendments to **SCR 1601** and requested a conference committee be appointed.

The President appointed Senators Morris, D. Schmidt and Hensley as a conference committee on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Emler introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1810-

A RESOLUTION congratulating and commending the Moundridge High School debate team on becoming the 2009 3-2-1A Four Speaker Debate state champion.

WHEREAS, The Moundridge High School debate team is the 2009 Kansas State High School Activities Association class 3-2-1A four speaker debate state champion; and

WHEREAS, Members of the Moundridge High School debate team are Marike Stucky, Natalie Stucky, Katie Stevens, Kristyn Harpool, Tori Frisbee and Marcy Erb; and

WHEREAS, The team was well-coached throughout the season by head coach Mark Stucky; and

WHEREAS, On January 24, 2009, the team won the 3-2-1A state championship with thirteen wins and one loss at Washburn Rural High School in Topeka, Kansas; and

WHEREAS, Kristyn Harpool and Katie Stevens, with alternates Marcy Erb and Tori Frisbee, arguing in the affirmative, went undefeated in the tournament; and

WHEREAS, Marike Stucky and Natalie Stucky, arguing in the negative, finished the tournament with only one loss, the best negative-team record at the tournament; and

WHEREAS, The Moundridge High School debate and forensics program was established in the 1940's by Edwin Stucky, who coached the team to 16 state debate championships, including a streak of eight in a row, and is father of current coach Mark Stucky; and

WHEREAS, Since 1992, under the guidance of coach Mark Stucky, the team has won nine more state championships, including a streak of five championships in a row; and

WHEREAS, The Moundridge High School debate and forensics program has enjoyed excellent support from the community and the Moundridge community is indebted to the Moundridge High School debate program for the leaders it has produced; and

WHEREAS, Many community leaders in Moundridge were members of state championship debate teams including: Carl Krehbiel, former state representative and current owner of the Moundridge Telephone Company; Ty Kaufman, Moundridge attorney; Ruth Ritthaler, former Kansas Assistant Attorney General; and David Bradbury, president of Bradbury Corporation; and

WHEREAS, The efforts of the 2009 team bring great credit upon themselves and their families, coaches and school and are deserving of being applauded for their hard work and effort required to excel in this activity: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Moundridge High School debate team for winning the 3-2-1A four speaker debate state

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championship and for continuing a tradition of excellence in High School debate and that we congratulate and commend coach Stucky for the expert guidance he has given to this champion debate team; and

Be it further resolved: That the Secretary of the Senate provide seven enrolled copies of this resolution to Senator Jay Scott Emler for presentation to the team.

On emergency motion of Senator Emler SR 1810 was adopted unanimously.

REPORT ON ENGROSSED BILLS

SB 11, SB 29 reported correctly engrossed February 4, 2009.

REPORT ON ENROLLED BILLS

SR 1808, SR 1809 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 4, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Assessment and Taxation recommends SB 100 be passed.

Also, **SB 97** be amended on page 1, in line 15, after "retailer" both times it appears, by inserting ", farm winery, microbrewery or distributor"; in line 21, by striking "a retailer" and inserting "any licensee"; in line 24, by striking "retailer" and inserting "licensee" and the bill be passed as amended.

Committee on Commerce recommends SB 78 be passed.

Committee on Education recommends SCR 1604 be adopted.

Also, **SB 73** be amended on page 1, by striking all in lines 14 through 21; following line 21, by inserting the following:

"New Section 1. (a) (1) The provisions of this subsection shall apply in any school year in which the amount of base state aid per pupil is 4,433 or less.

(2) The board of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the base state aid per pupil was \$4,433 or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(b) (1) The provisions of this subsection shall apply in any school year in which the amount appropriated for state aid for special education and related services is less than the amount appropriated for state aid for special education and related services in school year 2008-2009.

(2) The board of education of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the district received state aid for special education and related services equal to the amount of state aid for special education and related services received in school year 2008-2009, or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(c) The board of education of any school district may exercise the authority granted under subsection (a) or (b) or both subsections (a) and (b).

(d) To the extent that the provisions of K.S.A. 72-6433, and amendments thereto, conflict with this section, this section shall control."; and the bill be passed as amended.

SB 131 be amended on page 1, in line 15, by striking "72-4476,"; and the bill be passed as amended.

Committee on **Ethics and Elections** recommends **SB 38** be amended on page 1, after line 18, by inserting:

"The board of county commissioners, on its own motion, may submit the proposition to the qualified electors of Mound City township and Paris township without the submission of the petition."; and the bill be passed as amended.

Also, **SB 80** be amended on page 1, in line 19, by striking "votes cast at" and inserting "qualified electors who vote in"; and the bill be passed as amended.

Committee on Judiciary recommends SB 86 be passed.

Also, SB 85 be amended on page 2, in line 17, by striking "certified";

On page 4, in line 30, by striking "cer-"; in line 31, by striking "tified"; in line 32, by striking "certified";

On page 5, in line 20, by striking "certified";

On page 6, in line 25, by striking "certified"; and the bill be passed as amended.

SB 132 be amended on page 2, after line 5, by inserting the following:

"(l) "Entity" means:

(1) A corporation;

(2) a general partnership, including a limited liability partnership;

(3) a limited partnership, including a limited liability limited partnership;

(4) a limited liability company;

(5) a business trust or statutory trust entity;

(6) a cooperative; or

(7) any other person that has a separate legal existence or has the power to acquire an interest in real property in its own name other than:

(A) An individual;

(B) a testamentary, inter vivos, or charitable trust, with the exception of a business trust, statutory trust entity or similar trust;

(C) an association or relationship that is not a partnership solely by reason of subsection (c) of K.S.A. 56a-202, and amendments thereto, or a similar provision of the law of any other jurisdiction;

(D) a decedent's estate; or

(E) a government, a governmental subdivision, agency, or instrumentality or a quasigovernmental instrumentality.";

And by relettering the remaining subsections accordingly;

On page 36, in line 11, after "17-7685," by inserting "17-7701, 17-7702, 17-7703, 17-7704, 17-7705, 17-7706, 17-7707, 17-7708, 17-7709,";

In the title, in line 12, after "17-7685," by inserting "17-7701, 17-7702, 17-7703, 17-7704, 17-7705, 17-7706, 17-7707, 17-7708, 17-7709,"; and the bill be passed as amended.

Committee on Public Health and Welfare recommends SB 25 be amended on page 1, following line 33, by inserting:

"(a) "Access point" means the area within a ten foot radius outside of any doorway, operable window or air intake leading into a building or facility that is not exempted pursuant to subsection (d) of K.S.A. 21-4010, and amendments thereto.";

And by relettering remaining subsections accordingly;

On page 2, by striking all in lines 14 through 21;

On page 3, in line 27, by striking "80%" and inserting "65%";

On page 5, in line 29, by striking "or" and inserting "and";

On page 6, following line 42, by inserting:

"New Sec. 7. The amendments made to K.S.A. 21-4009 through 21-4012, and amendments thereto, and K.S.A. 21-4013 and 21-4014, and amendments thereto, shall constitute the Kansas indoor clean air act."

And by renumbering sections accordingly;

On page 7, in line 2, after "after", by inserting "January 2, 2010, and"; In the title, in line 9, after "ACT", by inserting "creating the Kansas indoor clean air act;"; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Lynn the following report was adopted:

Recommended SB 82 be passed.

SB 102 be amended by adoption of the committee amendments, and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, February 5, 2009.

Journal of the Senate

EIGHTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, February 5, 2009—2:30 p.m.

The Senate was called to order by Vice President John Vratil. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Today, I'm attempting to put myself in the place of a Senator.

I told my constituents, Lord, I would try to make a difference; I said I would do my best And serve them with all diligence.

But sometimes they forget, O God, I've only one of forty votes. So even if I vote their way, The bill just may not float.

Even if it passes, The House must also pass it; Which is another obstacle Considering this facet.

Besides, the Governor has the right To veto any bill Which makes it more possible That it will be killed.

If the veto is overridden It can still experience defeat, Being declared unconstitutional By the Court across the street.

However, I believe You helped me, Lord, To get here in the Senate, So I trust that You will help me To make a difference in it! I ask this in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 215, An act concerning certain boards, commissions and officers; relating to the appointment thereof; amending K.S.A. 2008 Supp. 75-712 and 75-4315d and repealing the existing sections, by Committee on Federal and State Affairs.

SB 216, An act concerning the Kansas cigarette and tobacco products act; sale of cigarettes and tobacco products in violation of act; amending K.S.A. 50-6,104, 79-3304, 79-3309, 79-3312a, 79-3323, 79-3324a, 79-3326, 79-3329, 79-3371, 79-3374, 79-3377 and 79-3379 and K.S.A. 2008 Supp. 79-3301, 79-3302, 79-3303, 79-3301, 79-3311, 79-3312, 79-3313, 79-3316, 79-3321, 79-3322, 79-3333, 79-3334, 79-3335, 79-3391, 79-3393, 79-3395, 79-3398 and repealing the existing sections; also repealing K.S.A. 79-3306, 79-3373, 79-3375 and 79-3378 and K.S.A. 2008 Supp. 79-3310c, by Committee on Judiciary.

SB 217, An act concerning electricity; relating to retail electric service and station power; concerning state educational institutions authority to enter into certain agreements concerning energy generation; amending K.S.A. 66-1,170, 66-1,171, 66-1,172 and 66-1,175 and repealing the existing sections, by Committee on Utilities.

SB 218, An act concerning alcoholic beverages; relating to farm wineries; authorizing certain permits and licenses, and activities by wine outlets; amending K.S.A. 41-305 and K.S.A. 2008 Supp. 41-308a and repealing the existing sections, by Committee on Agriculture.

SB 219, An act concerning retirement and pensions; relating to the Kansas public employees retirement system; death and disability benefits; employer contributions; amending K.S.A. 2008 Supp. 74-4927 and repealing the existing section, by Committee on Ways and Means.

SB 220, An act concerning emergency medical services; amending K.S.A. 65-6110, 65-6125, 65-6126, 65-6127, 65-6128, 65-6129b, 65-6129b, 65-6129c, 65-6130, 65-6132, 65-6133, 65-6135, 65-6145 and 65-6150 and K.S.A. 2008 Supp. 44-131, 65-6111, 65-6112, 65-6124 and 65-6129 and repealing the existing sections, by Committee on Ways and Means.

SB 221, An act concerning emergency medical services; duties of emergency medical services board; amending K.S.A. 2008 Supp. 65-6111 and repealing the existing section, by Committee on Ways and Means.

SB 222, An act concerning emergency medical services; criminal history record checks, by Committee on Ways and Means.

SB 223, An act concerning the emergency medical services board; subpoena authority; amending K.S.A. 65-6130 and K.S.A. 2008 Supp. 65-6111 and repealing the existing sections, by Committee on Ways and Means.

SB 224, An act concerning the emergency medical services board; authorizing the assessment of civil penalties, by Committee on Ways and Means.

SB 225, An act concerning the low-income family postsecondary savings accounts incentive program; amending K.S.A. 2008 Supp. 75-650 and repealing the existing section, by Committee on Ways and Means.

SB 226, An act concerning government transparency; regarding state funds; legislative votes; amending K.S.A. 2008 Supp. 74-72,123 and repealing the existing section, by Committee on Ways and Means.

SB 227, An act concerning tourism; creating the Kansas tourism corporation and providing for the powers and duties thereof; transferring the powers and duties of the division of travel and tourism development to the Kansas tourism corporation; providing for tourism development and funding; amending K.S.A. 73-2103 and K.S.A. 2008 Supp. 73-2402, 73-2404, 74-5005 and 79-3620 and repealing the existing sections; also repealing K.S.A. 74-5032, 74-5032a and 74-5090 and K.S.A. 2008 Supp. 74-5089, 74-5091, 74-9001, 74-9002, 74-9003, 74-9004 and 74-9005, by Committee on Ways and Means.

SB 228, An act concerning property tax; relating to exemptions; pertaining to motor vehicles leased for a period of at least one year and used for certain exempt purposes; amending K.S.A. 2008 Supp. 79-201 and 79-201a and repealing the existing sections, by Committee on Assessment and Taxation.

SB 229, An act concerning employment; relating to misclassification of employees; amending K.S.A. 2008 Supp. 79-3234 and repealing the existing section, by Committee on Federal and State Affairs.

February 5, 2009

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were referred to Committees as indicated: Agriculture: **SB 185, SB 203.**

Assessment and Taxation: SB 177, SB 192, SB 197; HB 2026; SCR 1607.

Education: SB 176, SB 194, SB 209.

Ethics and Elections: SB 186, SB 190, SB 191, SB 193, SB 210.

Federal and State Affairs: SB 178, SB 179, SB 201, SB 202, SB 212, SB 213; SCR 1608.

Financial Institutions & Insurance: SB 181, SB 195, SB 206; HB 2052.

Judiciary: SB 188, SB 208, SB 211.

Local Government: SB 198; HCR 5008.

Natural Resources: SB 182, SB 183, SB 184, SB 189, SB 214.

Public Health and Welfare: SB 180, SB 200.

Ways and Means: SB 187, SB 196, SB 199, SB 204, SB 205, SB 207.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS BOARD OF PHARMACY

February 3, 2009

Debra Billingsley, Executive Secretary, Kansas Board of Pharmacy, pursuant to KSA 65-4102(b), submitted a report concerning the classification of the substance N-Benzylpiperazine (BZP) as a schedule I controlled substance for purposes of the Kansas Controlled Substance Act.

The Vice President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

MESSAGE FROM THE HOUSE

Announcing adoption of HCR 5007.

Announcing adoption of SCR 1606.

Announcing passage of H Sub for Sub for SB 23, as amended.

The House accedes to the request of the Senate for a conference on **SCR 1601** and has appointed Representatives Shultz, Kinzer and Sawyer as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HCR 5007, a concurrent resolution providing for a joint session of the Senate and House of Representatives for the purpose of hearing a message from the Supreme Court, was thereupon introduced and read by title.

On emergency motion of Senator D. Schmidt, HCR 5007 was adopted by voice vote.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Emler the Senate nonconcurred in the House amendments to **H Sub for Sub SB 23** and requested a conference committee be appointed.

The Vice President appointed Senators Emler, Vratil and Kelly as a conference committee on the part of the Senate.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 82, An act repealing K.S.A. 2008 Supp. 65-1,214; relating to residential childhood lead poisoning prevention; concerning sunset provision, was considered on final action. On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting

0

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 102, An act concerning emergency medical services; relating to use of automated external defibrillator; amending K.S.A. 2008 Supp. 65-6149a and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1811-

A RESOLUTION encouraging participation in the American Heart Association's Go Red for Women campaign.

WHEREAS, Friday, February 6, has been designated "National Wear Red Day for Women" by the American Heart Association, and this event is part of the Go Red for Women campaign, the American Heart Association's national call to increase awareness about heart disease, the leading cause of death for women, and that this movement celebrates the energy, passion and power women have to take charge of their heart health in order to live stronger, longer lives; and

WHEREAS, The color red and the red dress symbol have become linked with the ability all women have to improve their heart health, and the American Heart Association is encouraging everyone to wear red on February 6 in support of all women who have experienced heart disease or stroke; and

WHEREAS, Diseases of the heart are the nation's leading cause of death and stroke is the third leading cause of death. In 2007, heart disease killed 5,727 Kansans, and more women die of cardiovascular disease than the next five leading causes of death combined, including all cancers; and

WHEREAS, Increasing women's awareness of heart disease through this program is important because only 21% of women consider cardiovascular disease their greatest health risk. This lack of urgency about women's heart health contributes to the death of over 460,000 American females each year, with over 11 females a day dying from heart disease and stroke in Kansas; and

WHEREAS, Many of the risk factors that can lead to heart disease, such as high blood pressure, high blood cholesterol and diabetes, can be controlled or prevented. Research has shown that men and women who lead healthy lifestyles, including making healthy food choices, getting regular exercise, maintaining a healthy weight and choosing not to smoke, can significantly decrease their risk of heart disease; and

WHEREAS, February is designated as American Heart Month, and women who contact the American Heart Association will be provided with information to learn their own personal risk for heart disease, using tools such as the American Heart Association's Go Red for Women Heart Checkup and by talking to their healthcare provider and obtaining information regarding free lifestyle programs to improve their health: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we support the efforts of the American Heart Association in reducing women's heart health problems and urge individual participation in the American Heart Association's Go Red for Women campaign; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Linda J. De Coursey, American Heart Association, 5375 SW 7th Street, Topeka, KS, 66606.

On emergency motion of Senator V. Schmidt SR 1811 was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on Public Health and Welfare recommends SB 16, SB 31 be passed.

Also, **SB 33** be amended on page 2, in line 12, by striking "\$50" and inserting "\$100"; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Teichman the following report was adopted:

Recommended SB 78, SB 86 be passed.

SB 38, SB 80, SB 85, SB 132 be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee report on **SB 6**, recommending a **Sub SB 6** be adopted, and the substitute bill be passed.

SCR 1604 be adopted.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and Sub SB 6; SB 38, SB 78, SB 80, SB 85, SB 86, SB 132; SCR 1604.

Sub SB 6, An act amending the charitable organizations and solicitations act; concerning professional fund raisers; amending K.S.A. 17-1766 and repealing the existing section.

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

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Huelskamp, Pyle.

The substitute bill passed.

SB 38, An act concerning hospital districts; relating to the formation of a hospital district in Linn county.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 78, An act concerning transportation development districts; amending K.S.A. 2008 Supp. 12-17,140, 12-17,141, 12-17,143, 12-17,145 and 12-17,148 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 80, An act concerning cities; dealing with certain elections; amending K.S.A. 15-809 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, PilcherCook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 85, An act concerning the secretary of state; relating to return of filings to corporations and limited partnerships; amending K.S.A. 17-6003, 17-7301, 17-7678 and 56-1a156 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 86, An act concerning the secretary of state; relating to letters of good standing; amending K.S.A. 17-7506 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 132, An act enacting the business entity transaction act; amending K.S.A. 17-7675, 17-7681, 56a-401, 56a-502, 56a-905, 56a-906, 56a-907 and 56a-908 and repealing the existing sections; also repealing K.S.A. 17-7684, 17-7685, 17-7701, 17-7702, 17-7703, 17-7704, 17-7705, 17-7705, 17-7706, 17-7707, 17-7709, 56a-901, 56a-902, 56a-903 and 56a-904.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SCR 1604, A concurrent resolution encouraging the Kansas State Historical Society to develop a plan to commemorate the sesquicentennial of the admission of Kansas to the Union.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The resolution was adopted.

MESSAGE FROM THE HOUSE

The House accedes to the request of the Senate for a conference on **H Sub for Sub for SB 23** and has appointed Representatives Yoder, Watkins and Feuerborn as conferees on the part of the House.

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, February 6, 2009.

Journal of the Senate

NINETEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Friday, February 6, 2009—8:00 a.m.

The Senate was called to order by Vice President John Vratil. The roll was called with thirty-two senators present. Senators Barnett, Bruce, Brungardt, Colyer, Faust-Goudeau, Masterson, Morris and Wysong were excused. Invocation by Chaplain Fred S. Hollomon: Heavenly Father, In Your book of Ecclesiastes You tell us "There is a time for everything." Please bless the following paraphrase: A time to compromise and a time to stand your ground. A time to smile and a time to frown. A time to listen and a time to speak. A time to defend and a time to turn the cheek. A time to laugh and a time to weep. A time to work and a time to sleep. A time to avoid and a time to embrace. A time to print and a time to erase. A time to mourn and a time to celebrate. A time to hurry and a time to wait. A time to stop and a time to go. A time to reap and a time to sow.

> A time to save and a time to spend. A time to receive and a time to send.

A time to walk and a time to run. A time to be serious and a time to have fun.

And finally: A time to pray and a time to "Amen".

I pray in the Name of Jesus, AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 230, An act concerning financial institutions; relating to the creation of the department of financial institutions, by Legislative Post Audit Committee.

SB 231, An act concerning state agencies; abolishing the Kansas animal health department; creating the animal health division within the Kansas department of agriculture; transferring the powers, duties and functions of the livestock commissioner and the Kansas animal

health department; abolishing the state conservation commission; creating the conservation division within the department of agriculture; transferring the powers, duties and functions of the executive director of the state conservation commission and the state conservation commission, by Legislative Post Audit Committee.

SB 232, An act concerning civil procedure; relating to worthless checks; amending K.S.A. 60-2610 and repealing the existing section, by Committee on Judiciary.

SB 233, An act concerning adoption; relating to relinquishment or consent; amending K.S.A. 2008 Supp. 59-2136 and repealing the existing section, by Committee on Judiciary.

SB 234, An act concerning civil procedure; relating to garnishment; amending K.S.A. 60-740, 61-3507 and 61-3510 and repealing the existing sections, by Committee on Judiciary.

SB 235, An act enacting the uniform adult guardianship and protective proceedings jurisdiction act; amending K.S.A. 59-3063 and K.S.A. 2008 Supp. 59-3058, 59-3061 and 59-3062 and repealing the existing sections, by Committee on Judiciary.

SB 236, An act concerning interest on judgments; amending K.S.A. 16-204, 44-512b, 44-5,120 and 60-2414 and K.S.A. 2008 Supp. 44-5,125 and repealing the existing sections, by Committee on Judiciary.

SB 237, An act concerning scrap metal; relating to regulation thereof; amending K.S.A. 2008 Supp. 50-6,109, 50-6,110, 50-6,111 and 50-6,112 and repealing the existing sections, by Committee on Judiciary.

SB 238, An act concerning crimes and punishments; relating to unlawful conduct of cockfighting; asset forfeiture; amending K.S.A. 21-4319 and K.S.A. 2008 Supp. 60-4104 and repealing the existing sections, by Committee on Judiciary.

SB 239, An act enacting the rural risk bank loan guarantee program, by Committee on Financial Institutions and Insurance.

SB 240, An act relating to mortgages; concerning the regulation thereof; amending K.S.A. 9-2201, 9-2202, 9-2207, 9-2212, 9-2216a, 9-2220, 16a-1-303, 16a-2-301, 16a-2-302, 16a-2-303, 16a-2-304, 16a-3-308, 16a-6-104, 16a-6-108, 16a-6-117, 16a-6-201 and 16a-6-203 and K.S.A. 2008 Supp. 9-2203, 9-2205, 9-2209, 9-2211 and 9-2216 and repealing the existing sections; also repealing K.S.A. 16a-6-413, by Committee on Financial Institutions and Insurance.

SB 241, An act relating to distressed property consulting services; providing for the regulation thereof; amending K.S.A. 50-1001, 50-1002, 50-1003, 50-1004, 50-1005, 50-1006, 50-1008, 50-1009, 50-1011, 50-1016, 50-1117, 50-1118, 50-1119, 50-1121, 50-1122, 50-1124, 50-1125, 50-1126, 50-1128 and 50-1133 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SB 242. An act concerning personal property taxation; relating to motor vehicles; computation of amount of tax; amending K.S.A. 79-5105 and repealing the existing section, by Committee on Assessment and Taxation.

SB 243, An act concerning veterans; relating to benefits for disabled veterans; pertaining to license plates for disabled veterans; adjustments to gross income; sales tax exemptions; and homestead tax credits; amending K.S.A. 8-160 and K.S.A. 2008 Supp. 79-32,117, 79-3606 and 79-4502 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 79-32,117m, by Committee on Assessment and Taxation.

SB 244, An act concerning the economic revitalization and reinvestment act; relating to eligible businesses; amending K.S.A 2008 Supp. 74-50,136 and repealing the existing section, by Committee on Assessment and Taxation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 228**. Commerce: **SB 227**. Education: **SB 225**. Federal and State Affairs: **SB 215**, **SB 218**, **SB 229**. Judiciary: **SB 216**, **SB 222**, **SB 223**, **SB 224**. Public Health and Welfare: **SB 220**. Utilities: **SB 217**. Ways and Means: SB 219, SB 221, SB 226.

REPORT ON ENGROSSED BILLS

SB 102 reported correctly engrossed February 5, 2009.

REPORT ON ENROLLED BILLS

SR 1810, SR 1811 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 6, 2009.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Monday, February 9, 2009.

Journal of the Senate

TWENTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS Monday, February 9, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Some time ago I prayed about how You considered love the most important virtue. LOVE is the first fruit of the Spirit the apostle Paul lists in his letter to the Galatians. The second fruit of the Spirit is JOY. (Ephes.5:22)

James said in his New Testament letter, "When you experience many trials, Count them all as joy, And face them with a smile." (1:2)

When I first read that, Lord, I almost replied, "You surely must be kidding," Until James clarified.....

The testing of our faith Leads to maturity, (1:3-4) And maturity's what we need To gain security.

And surely in this session We have to spend a while Dealing with some issues Which qualify as trials!

Lord, thank you for assuring us As we endure our trials, They contribute to maturity, And hopefully help us smile.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 245, An act concerning cities; relating to publication of ordinances; amending K.S.A. 12-3007 and repealing the existing section, by Committee on Federal and State Affairs.

SB 246, An act concerning alcoholic beverages; authorizing the issuance of a special permit to conduct tastings of alcoholic beverages, by Committee on Federal and State Affairs.

SB 247, An act concerning alcoholic beverages; relating to licensure of a club or drinking establishment; amending K.S.A. 41-2651 and repealing the existing section, by Committee on Federal and State Affairs.

SB 248, An act concerning controlled substances; creating a statewide electronic logging system for sale of methamphetamine precursor; amending K.S.A. 2008 Supp. 65-1643 and repealing the existing section; also repealing K.S.A. 2008 Supp. 65-1643b, by Committee on Ways and Means.

SB 249, An act concerning pharmacists; relating to substitution of drug product; amending K.S.A. 2008 Supp. 65-1637 and repealing the existing section, by Committee on Ways and Means.

SB 250, An act concerning workers compensation; relating to benefits; amending K.S.A. 44-510c, 44-510d, 44-510e and 44-510f and K.S.A. 2008 Supp. 44-501 and repealing the existing sections, by Committee on Ways and Means.

SB 251, An act concerning workers compensation; relating to bilateral scheduled injuries; amending K.S.A. 44-510e and repealing the existing section, by Committee on Ways and Means.

SB 252, An act concerning criminal procedure; relating to payment rates for offenders in custody; amending K.S.A. 22-4612 and repealing the existing section, by Committee on Ways and Means.

SB 253, An act concerning zoning; amending K.S.A. 12-757 and repealing the existing section, by Committee on Ways and Means.

SB 254, An act concerning zoning; relating to counties declared urban areas; amending K.S.A. 19-2960 and repealing the existing section, by Committee on Ways and Means.

SB 255, An act concerning property taxation; relating to statewide levy for public schools; exemption therefrom, residential property; amending K.S.A. 2008 Supp. 72-6431 and 79-201x and repealing the existing sections, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: SB 242, SB 243, SB 244.

Financial Institutions & Insurance: SB 239, SB 240, SB 241.

Judiciary: SB 232, SB 233, SB 234, SB 235, SB 236, SB 237, SB 238. Ways and Means: SB 230, SB 231.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1812-

A RESOLUTION congratulating Norma Grubb

for winning Good Morning America Weekend's "Best Slice Challenge."

WHEREAS, Edith Norma Beach-Grubb was born in Fairview, Kansas on May 28, 1920 to Roy and Mary Ann Beach; and

WHEREAS, Norma first lived in the Dover community when her parents moved into a farm house north of Dover in 1934. While in Dover, Norma attended Dover High School; and

WHEREAS, Norma married Wilbur Martin Grubb on June 1, 1938 and left the Dover area until returning in 1960 with their eight children to settle in Dover, and

WHEREAS, In addition to her children, Norma Grubb also has 23 grandchildren, 28 great-grandchildren, 4 step-grandchildren and 11 great-great-grandchildren; and

WHEREAS, Norma first started making her coconut cream pies for the public in her café in Dover in 1962; and

WHEREAS, Since the Dover café reopened as Somerset Hall Café on October 3, 2006 under the ownership of Everett and Judy Thomas, Norma Grubb has made 2,537 pies of all kinds from scratch; and

WHEREAS, Norma Grubb has used her superb talent for pie-making to contribute to the Dover community that she cares for so deeply, a contribution that unknowingly led to her nomination in the "Best Slice Challenge" in November 2008; and

WHEREAS, On November 23, 2008, the people of America voted Norma Grubb's coconut cream pie the best in America in the ABC network Good Morning America Weekend's "Best Slice Challenge"; and

WHEREAS, All the attention following Norma's reception of this award has been overwhelming, not only leading to a doubling in her pie production to try and meet the demand, but it also has increased the attention and donations to an endowment fund in her name for the Dover Community Foundation, a cause of great importance to her; and

WHEREAS, Norma Grubb and her delectable coconut cream pie are perfect examples of the wonderful treasures in all the small towns across Kansas: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate Norma Grubb for winning the Good Morning America Weekend's "Best Slice Challenge" and thank her for baking her amazing pies; and

Be it further resolved. That the Secretary of the Senate is directed to provide Senator Vicki Schmidt with 40 enrolled copies of this resolution.

On emergency motion of Senator V. Schmidt SR 1812 was adopted unanimously.

Norma Grubb was introduced and honored with a standing ovation. Several members of her family were also guests.

Senator D. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1813-

A RESOLUTION congratulating and commending the 2008 Independence High School boys' tennis team.

WHEREAS, The Independence High School Bulldogs boys' tennis team won the 2008 Kansas State High School Athletic Association Class 4A state championship for the third year in a row, scoring a total of 36 points; 14 points more than the second place team; and

WHEREAS, The team included seniors Andrew Carr, Adam Greenhaw, Matt Hastings, Sam Schroeder and Michael Ysusi; juniors Logan Dent, Omar Elshabassy, Shane Ferguson, Andrew Payne, Dan Porter and Rylan Romans; sophomores Anthony Davis, Kyle Ferris, Wes Goodrich, Michael Gudmonson, Issac Hilger, Logan Papen, Mason Posch, Cameron Schicke and Austin Schroeder; and freshmen Nick Romans and Joel Simwinga; and

WHEREAS, This year's state qualifiers were Adam Greenhaw, Sam Schroeder, Shane Ferguson, Dan Porter, Omar Elshabassy and Nick Romans. They have been led by the experience and wisdom of their coach Ken Brown and assistant coach Harry Bass; and

WHEREAS, Sam Schroeder and Adam Greenhaw, making their second appearance in the state tournament, finished third in the doubles competition for a season record of 35-6, including first place finishes in doubles at the SEK Tournament and the Class 4A regional and sub-state tournaments; and

WHEREAS, Dan Porter, making his third straight appearance in the state tournament, finished in third place in the state singles competition, giving him a 35-6 record for his junior year; and

WHEREAS, Shane Ferguson and Omar Elshabassy, making their first appearance in the state tournament, finished fifth in the doubles competition, giving them a season record of 35-8; and

WHEREAS, Nick Romans, only the fifth freshman in Bulldog history to qualify for the state tournament, finished ninth in the singles competition, giving him a season record of 30-8; and

WHEREAS, Every Bulldog state qualifier finished in the top 10, truly making this championship a team effort; and

WHEREAS, The members of this championship team have received well deserved recognition from their community and the state for demonstrating high standards of sportsmanship and tremendous athletic ability: Now, therefore, *Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the Independence High School boys' tennis team and Coach Brown for winning the 2008 Class 4A state championship and for continuing a tradition of excellence in boys' tennis; and

Be it further resolved: That the Secretary of the Senate provide three enrolled copies of this resolution to Senator Derek Schmidt.

On emergency motion of Senator D. Schmidt SR 1813 was adopted unanimously.

Senator V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1814-

By Senator V. Schmidt

A RESOLUTION congratulating the Washburn Rural High School volleyball team for winning their third straight State Championship.

WHEREAS, The women of Washburn Rural High School have played their way to a 41-4 record en route to yet another State Title; and

WHEREAS, Their success this season is but an extension of their unbelievable winning streak, including their fifth straight Centennial League Championship, their 12th straight year as sub-state champions, their 10th straight appearance in the Final Four, their fourth State Title in five years, and their third straight State Championship under 14-year Coach Kevin Bordewick: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we do hereby congratulate team members Shannon Majors, Kacia Turner, Ashley Yoder, Jamie Branch, Lindsay Gifford, Alexa Bordewick, Kelsey Lewis, Jenny Hunt, Rachel Kueck, Emily Conklin, Dani Musselman, Whitney Gifford and Maddie Baum, Assistant Coach Nikki Noe and Head Coach Kevin Bordewick of the Washburn Rural High School volleyball team.

Be it further resolved: That 18 copies of this resolution be furnished to Coach Boredewick and the members of the Washburn Rural High School volleyball team.

On emergency motion of Senator V. Schmidt SR 1814 was adopted unanimously.

Introduced and recognized with a standing ovation were team members, Shannon Majors, Kacia Turner, Ashley Yoder, Jamie Branch, Lindsay Gifford, Alexa Bordewick, Kelsey Lewis, Jenny Hunt, Rachel Kueck, Emily Conklin, Dani Musselman, Whitney Gifford and Maddie Baum; Assistant Coach Nikki Noe; Head Coach Kevin Bordewick; Dr. Brenda Dietrich, Ed Raines and Penny Lane.

Senator Emler introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1815-

A RESOLUTION congratulating the Residential Construction Management Team from McPherson High School.

WHEREAS, On January 21, 2009, McPherson High School's Residential Construction Management Team won 2nd place in the nation in the high school division of the 2009 International Builders' Show Residential Construction Management Competition; and

WHEREAS, The team members are Craig Lolling, Courtney Huber, Preston Mossman, Taylor Stevens and Michael Bruns with coach Arlan Penner; and

WHEREAS, The competition required the team to assemble a complete set of house plans, cost estimates and a detailed schedule for a home to be built in San Antonio, Texas; and

WHEREAS, McPherson was one of only 11 high school teams accepted into the competition, in addition to 39 universities and 20 two-year colleges; and

WHEREAS, McPherson's success was enabled with the financial support of their sponsors: The McPherson Area Contractors Association, the National Home Builders Association, the McPherson Community Education Foundation, the NuStar Foundation, the National Cooperative Refinery Association, the Wichita Area Builders Association, the American Maplan Corporation, the Light Capital Kiwanis and Joe and Diane Levens; and

WHEREAS, The technical skills and cooperation demonstrated by McPherson High School in winning this award is a testament to the commitment and hard work of the team and is deserving of all the recognition they have received: Now, therefore, Be it resolved by the Senate of the State of Kansas: That we congratulate the Residential Construction Management Team from McPherson High School for winning 2nd place in the entire nation in the high school division of the 2009 International Builders' Show Residential Construction Management Competition.

On emergency motion of Senator Emler SR 1815 was adopted unanimously.

Introduced and recognized with a standing ovation were team members, Craig Lolling, Courtney Huber, Preston Mossman, Taylor Stevens and Michael Bruns; Coach Arlan Penner and Courtney Huber's mother, Julie Huber.

REPORT ON ENGROSSED BILLS

SB 38, SB 80, SB 85, SB 132 reported correctly engrossed February 6, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **SB 161** 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 **Ethics and Elections** recommends **SB 55** be amended on page 1, by striking all in line 35 and inserting the following:

"Sec. 2. K.S.A. 2008 Supp. 25-4148b is hereby amended to read as follows: 25-4148b. (a) Every treasurer for a candidate for state or local office shall file reports of campaign contributions as prescribed by this act. Reports filed by treasurers for candidates for state office, other than officers elected on a state-wide basis, shall be filed in both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident. Reports filed by treasurers for candidates for state-office shall be filed only with the secretary of state. Reports filed by treasurers for candidates for local office shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot. Reports required by this section shall be in addition to any other reports required by law.

(b) The report shall contain the name and address of each person who has made one or more contributions in an aggregate amount or value of \$300 or more during the period commencing 11 days before a primary or general election at which a state or local officer is to be elected and ending at 11:59 p.m. on the Wednesday preceding the date of election. The report shall be made on or before the close of business on the Thursday preceding the date of the election. The report shall contain the amount and date of the contribution, including the name and address of every lender, guarantor and endorser when the contribution is in the form of an advance or loan.

(c) Reports required by this section shall be filed by hand delivery, express delivery service, facsimile transmission or any electronic method authorized by the secretary of state.

(d) (1) "Local office" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(2) "State office" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

 $\left(e\right)$ The provisions of this section shall be part of and supplemental to the campaign finance act.

Sec. 3. K.S.A. 2008 Supp. 25-4148c is hereby amended to read as follows: 25-4148c. (a) Every treasurer for a party committee or political committee shall file reports of independent expenditures as prescribed by this act. Reports shall be filed with the secretary of state. Reports required by this section shall be in additions to any other reports required by law.

(b) (1) The report shall contain the name and address of each party committee or political committee which has made or contracted to be made independent expenditures in an aggregate amount or value in excess of \$300 or more during the period commencing 11 days before a primary or general election at which a state or local officer is to be elected and ending at 11:59 p.m. on the Wednesday preceding the date of the election. Such report shall contain the amount, date and purpose of each such independent expenditure, as well as the name of the candidate whose nomination, election or defeat is expressly advocated. When an independent expenditure is made by payment to an advertising agency, public relations firm or political consultant for disbursement to vendors, the report of such inde-

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pendent expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each, as well as the name of the candidate whose nomination, election or defeat is expressly advocated. The report shall be made on or before the close of business on the Thursday preceding the date of the election.

(2) In addition, a separate report shall be made on a daily basis for the Thursday, Friday, Saturday and Sunday immediately preceding the election. Each daily report shall contain the information required in paragraph (1) of this section. Each report shall be filed by 5:00 p.m. on the next day respectively.

(c) Reports required by this section shall be filed by hand delivery, express delivery service, facsimile transmission or any electronic method authorized by the secretary of state.

(d) (1) "Expenditure" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(2) "Independent expenditure" means an expenditure that is made without the cooperation or consent of the candidate or agent of such candidate intended to be benefited and which expressly advocates the election or defeat of a clearly identified candidate.

(3) "Party committee" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

 $\left(4\right)$ "Political committee" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(e) The provisions of this section shall be part of and supplemental to the campaign finance act.

Sec. 4. K.S.A. 2008 Supp. 25-4148d is hereby amended to read as follows: 25-4148d. (a) Every treasurer for a party committee or political committee shall file reports of contributions as prescribed by this act. Reports shall be filed with the secretary of state. Reports required by this section shall be in additions to any other reports required by law.

(b) (1) The report shall contain the name and address of each person who makes a contribution to the party committee or political committee in an aggregate amount or value in excess of \$300 or more during the period commencing 11 days before a primary or general election at which a state or local officer is to be elected and ending at 11:59 p.m. on the Wednesday preceding the date of the election. Such report shall contain the amount and date of each such contribution. The report shall be made on or before the close of business on the Thursday preceding the date of the election.

(2) In addition, a separate report shall be made on a daily basis for the Thursday, Friday, Saturday and Sunday immediately preceding the election. Each daily report shall contain the information required in paragraph (1) of this section. Each report shall be filed by 5:00 p.m. on the next day respectively.

(c) Reports required by this section shall be filed by hand delivery, express delivery service, facsimile transmission or any electronic method authorized by the secretary of state.

 $(\mathrm{d})\,(1)$ "Contribution" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(2) "Party committee" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(3) "Political committee" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(e) The provisions of this section shall be part of and supplemental to the campaign finance act.

Sec. 5. K.S.A. 25-4142 is hereby amended to read as follows: 25-4142. K.S.A. 25-4119e, 25-4119f, 25-4119g, 25-4142 through 25-4187 and K.S.A. 25-4153b, sections 8 and 9, and amendments thereto, shall be known and may be cited as the campaign finance act.

Sec. 6. K.S.A. 2008 Supp. 25-4143 is hereby amended to read as follows: 25-4143. As used in the campaign finance act, unless the context otherwise requires:

(a) "Candidate" means an individual who: (1) Appoints a treasurer or a candidate committee;

(2) makes a public announcement of intention to seek nomination or election to state or local office;

(3) makes any expenditure or accepts any contribution for such person's nomination or election to any state or local office; or

(4) files a declaration or petition to become a candidate for state or local office.

(b) "Candidate committee" means a committee appointed by a candidate to receive contributions and make expenditures for the candidate.

(c) "Clearly identified candidate" means a candidate who has been identified by the:

(1) Use of the name of the candidate;

(2) use of a photograph or drawing of the candidate; or

(3) unambiguous reference to the candidate whether or not the name, photograph or drawing of such candidate is used.

(d) "Commission" means the governmental ethics commission.

(e) (1) "Contribution" means:

(A) Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value given to a candidate, candidate committee, party committee or political committee for the express purpose of nominating, electing or defeating a clearly identified candidate for a state or local office.

(B) Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value made to expressly advocate the nomination, election or defeat of a clearly identified candidate for a state or local office;

(C) a transfer of funds between any two or more candidate committees, party committees or political committees;

(D) the payment, by any person other than a candidate, candidate committee, party committee or political committee, of compensation to an individual for the personal services rendered without charge to or for a candidate's campaign or to or for any such committee;

(E) the purchase of tickets or admissions to, or advertisements in journals or programs for, testimonial events;

(F) a mailing of materials designed to expressly advocate the nomination, election or defeat of a clearly identified candidate, which is made and paid for by a party committee with the consent of such candidate.

(2) "Contribution" does not include:

(A) The value of volunteer services provided without compensation;

(B) costs to a volunteer related to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in K.S.A. 25-4149, and amendments thereto;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding a fair market value of \$50 per event; or

(E) The transfer of campaign funds to a bona fide successor committee or candidacy in accordance with K.S.A. 25-4157a, and amendments thereto.

(f) "Election" means:

(1) A primary or general election for state or local office; and

(2) a convention or caucus of a political party held to nominate a candidate for state or local office.

(g) (1) "Expenditure" means:

(A) Any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made by a candidate, candidate committee, party committee or political committee for the express purpose of nominating, electing or defeating a clearly identified candidate for a state or local office.

(B) Any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made to expressly advocate the nomination, election or defeat of a clearly identified candidate for a state or local office;

(C) any contract to make an expenditure;

(D) a transfer of funds between any two or more candidate committees, party committees or political committees; or

(E) payment of a candidate's filing fees.

(2) "Expenditure" does not include:

(A) The value of volunteer services provided without compensation;

(B) costs to a volunteer incidental to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in K.S.A. 25-4149, and amendments thereto;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning or payment of such costs by the treasurer of a candidate or candidate committee;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding fair market value of \$50 per event; or

(E) any communication by an incumbent elected state or local officer with one or more individuals unless the primary purpose thereof is to expressly advocate the nomination, election or defeat of a clearly identified candidate.

(h) "Expressly advocate the nomination, election or defeat of a clearly identified candidate" means any communication which uses phrases including, but not limited to:

(1) "Vote for the secretary of state";

(2) "re-elect your senator";

(3) "support the democratic nominee";

(4) "cast your ballot for the republican challenger for governor";

(5) "Smith for senate";

(6) "Bob Jones in '98";

(7) "vote against Old Hickory";

(8) "defeat" accompanied by a picture of one or more candidates; or

(9) "Smith's the one."

(i) "Party committee" means:

(1) The state committee of a political party regulated by article 3 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;

(2) the county central committee or the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;

(3) the bona fide national organization or committee of those political parties regulated by the Kansas Statutes Annotated;

(4) not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the senate;

(5) not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the house of representatives; or

(6) not more than one political committee per congressional district established by the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto, and designated as a congressional district party committee.

(j) "Person" means any individual, committee, corporation, partnership, trust, organization or association.

(k) (1) "Political committee" means any combination of two or more individuals or any person other than an individual, a major purpose of which is to expressly advocate the nomination, election or defeat of a clearly identified candidate for state or local office or make contributions to or expenditures for the nomination, election or defeat of a clearly identified candidate for state or local office.

(2) "Political committee" shall not include a candidate committee or a party committee.

(1) "Receipt" means a contribution or any other money or thing of value, but not including volunteer services provided without compensation, received by a treasurer in the treasurer's official capacity.

(m) "Public office" means a state or local office.

(n) "Local office" means:

(1) A member of the governing body of a city of the first class;

(2) an elected office of:

(A) A unified school district having 35,000 or more pupils regularly enrolled in the preceding school year;

(B) a county; or

(C) the board of public utilities.

 $\frac{\rm (m)}{\rm (o)}$ "State office" means any state office as defined in K.S.A. 25-2505, and amendments thereto.

 (\mathbf{n}) (p) "Testimonial event" means an event held for the benefit of an individual who is a candidate to raise contributions for such candidate's campaign. Testimonial events include but are not limited to dinners, luncheons, rallies, barbecues and picnics.

 (σ) (q) "Treasurer" means a treasurer of a candidate or of a candidate committee, a party committee or a political committee appointed under the campaign finance act or a treasurer of a combination of individuals or a person other than an individual which is subject to paragraph (2) of subsection (a) of K.S.A. 25-4172, and amendments thereto.

(p) "Local office" means a member of the governing body of a city of the first class, any elected office of a unified school district having 35,000 or more pupils regularly enrolled in the preceding school year, a county or of the board of public utilities.

Sec. 7. K.S.A. 2008 Supp. 25-4157a is hereby amended to read as follows: 25-4157a. (a) No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate and no such moneys shall be used by such candidate or the candidate committee of such candidate except for:

(1) Legitimate campaign purposes;

(2) expenses of holding political office;

(3) contributions to the party committees of the political party of which such candidate is a member;

(4) any membership dues related to the candidate's campaign paid to a community service or civic organization in the name of the candidate;

(5) any donations paid to a community service or civic organization in the name of the candidate or candidate committee of any candidate but only if the candidate receives no goods or services unrelated to the candidate's campaign as a result of the payment of such donations;

(6) expenses incurred in the purchase of tickets to meals and special events sponsored by any organization the major purpose of which is to promote or facilitate the social, business, commercial or economic well being of the local community; or

 $\left(7\right)$ expenses incurred in the purchase and mailing of greeting cards to voters and constituents.

For the purpose of this subsection, expenditures for "personal use" shall include expenditures to defray normal living expenses for the candidate or the candidate's family and expenditures for the personal benefit of the candidate having no direct connection with or effect upon the campaign of the candidate or the holding of public office.

(b) No moneys received by any candidate or candidate committee of any candidate as a contribution shall be used to pay interest or any other finance charges upon moneys loaned to the campaign by such candidate or the spouse of such candidate.

(c) No candidate or candidate committee shall accept from any other candidate or candidate committee for any candidate for local, state or national office, any moneys received by such candidate or candidate committee as a campaign contribution. The provisions of this subsection shall not be construed to prohibit:

(1) A candidate or candidate committee from accepting moneys from another candidate or candidate committee if such moneys constitute a reimbursement for one candidate's proportional share of the cost of any campaign activity participated in by both candidates involved. Such reimbursement shall not exceed an amount equal to the proportional share of the cost directly benefiting and attributable to the personal campaign of the candidate making such reimbursement; or

(2) A candidate or candidate committee from transferring campaign funds to a bona fide successor committee or candidacy established by the candidate.

(d) At the time of the termination of any campaign and prior to the filing of a termination report in accordance with K.S.A. 25-4157, and amendments thereto, all residual funds otherwise not obligated for the payment of expenses incurred in such campaign or the holding of office shall be contributed to a charitable organization, as defined by the laws of the state; contributed to a party committee or returned as a refund in whole or in part to any contributor or contributors from whom received or paid into the general fund of the state. At the time of the termination of any campaign and prior to the filing of a termination report

in accordance with K.S.A. 25-4157, and amendments thereto, all residual funds not otherwise obligated for the payment of expenses incurred in such campaign or the holding of office, or any portion of such funds, shall be:

(1) Contributed to a charitable organization, as defined by the laws of the state; or

(2) contributed to a party committee; or

(3) returned as a refund in whole or in part to any contributor or contributors from whom such funds were received; or

(4) paid into the general fund of the state; or

(5) transferred to a bona fide successor committee or candidacy established by the candidate; or

(6) transferred for the purpose of retiring the remaining debt to the original committee or candidacy from which funds were transferred pursuant to paragraph (2) of subsection (e).

Whenever a transfer to a bona fide successor committee or candidacy is made pursuant to paragraph (5), all moneys shall be transferred to the bona fide successor committee or candidacy.

(e) For the purposes of this section, "bona fide successor committee or candidacy" means:

(1) The candidate's campaign committee or candidacy for a public office initiated at the termination of the original candidacy; or

(2) the candidate's campaign committee or candidacy initiated at the time of the transfer of all moneys to a new campaign committee or candidacy for public office when there is debt in the original campaign at the time of the transfer and the candidate does not terminate the original campaign committee or candidacy.

New Sec. 8. (a) Upon transferring money to a bona fide successor committee or candidacy as defined by paragraph (2) of subsection (e) of K.S.A. 25-4157a, and amendments thereto, the candidate may only accept contributions to the original candidacy sufficient to retire the debt. Such contributions shall be subject to the contribution limits for the original office sought as set forth in K.S.A. 25-4153, and amendments thereto. Once the candidate has received sufficient contributions to retire the debt, the candidate must terminate the candidacy pursuant to the provisions set forth in subsection (d) of K.S.A. 25-4157a, and amendments thereto.

(b) This section shall be part of and supplemental to the campaign finance act.

New Sec. 9. (a) For the period commencing on January 1, 1976, and ending on the day preceding the effective date of this act, any candidate who transferred campaign funds to a bona fide successor candidacy, as such term is defined in K.S.A. 25-4157a, and amendments thereto, shall be deemed to have made such transfer in compliance with the provisions of the campaign fundate at the time of such transfer regardless of when the original campaign fund is closed after the date such transfer is made and such transfer is hereby validated.

Sec. 10. K.S.A. 25-1218 and 25-4142 and K.S.A. 2008 Supp. 25-4143, 25-4148b, 25-4148c, 25-4148d and 25-4157a are hereby repealed.";

Also on page 1, in the title, in line 9, by striking all after the semicolon; by striking all in lines 10 and 11 and inserting "amending K.S.A. 25-1218 and 25-4142 and K.S.A. 2008 Supp. 25-4143, 25-4148b, 25-4148c, 25-4148d and 25-4157a and repealing the existing sections."; and the bill be passed as amended.

Committee on Judiciary recommends SB 61, SB 66, SB 68, SB 70 be passed.

Also, **SB 134** be amended on page 17, in line 13, by striking "statue book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Local Government** recommends **SB 91** be amended on page 1, in line 17, by striking "five" and inserting "10"; in line 18, after the period by inserting "For purposes of this section, residential developments may include single family housing; multiple family housing such as apartments, duplexes, townhomes and similar configurations; condominiums; and mobile homes."; in line 21, after the stricken "all" by inserting "all"; after line 29 by inserting the following:

"(c) The governing body may provide in zoning regulations for earlier vesting of development rights, however, vesting shall occur in the same manner for all uses of land within a land-use classification under the adopted zoning regulations."; Also on page 1, by striking all in lines 30 and 31; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Apple the following report was adopted:

Recommended SB 16, SB 31 be passed.

SB 97 be amended by adoption of the committee amendments, and the bill be passed as amended.

SB 131 be amended by adoption of the committee amendments, and be further amended by motion of Senator Shodorf, on page 1, in line 21, by striking "statute,"; in line 23, following the period by inserting, "If the designation of a technical college is changed pursuant to this section, whenever any statute refers to a technical college by the designation in K.S.A. 72-4472, 72-4473, 72-4474, 72-4475, 72-4477 or K.S.A. 2008 Supp. 72-4477a, as such sections existed prior to July 1, 2009, such reference or designation shall be construed to mean the designation as provided in the resolution.", and **SB 131** be passed as further amended.

SB 33 be amended by adoption of the committee amendments, and be further amended by motion of Senator V. Schmidt, on page 1, preceding line 17, by inserting the following:

"New Section 1. (a) The emergency medical services board may require an original applicant for licensure to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or other jurisdictions. The board is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The board may use the information obtained from fingerprinting and the applicant's criminal history for purposes of verifying the identification of any applicant and in the official determination of character and fitness of the applicant for any licensure to practice emergency medical services in this state.

(b) Local and state law enforcement officers and agencies shall assist the emergency medical services board in taking and processing of fingerprints of applicants to practice emergency medical services in this state and shall release all records of adult convictions and non-convictions and adult convictions or adjudications of another state or country to the emergency medical services board.

(c) The board shall fix a fee for fingerprinting of applicants or licenses, or both, as may be required by the board in an amount necessary to reimburse the board for the cost of the fingerprinting. All such fees shall be credited in full to the criminal background and finger-printing fund.

(d) There is hereby created in the state treasury the criminal background and fingerprinting fund. All money credited to the fund shall be used to pay the Kansas bureau of investigation for the processing of fingerprints and criminal history background checks for the board of emergency medical services. The fund shall be administered by the board of emergency medical services. The board of emergency medical services shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the criminal background and fingerprinting fund. All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the board or a person designated by the board under K.S.A. 65-6103, and amendments thereto.";

And by renumbering the remaining sections accordingly;

Also on page 1, in line 42, following the period, by inserting "The board of pharmacy shall remit all moneys received by or for its from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto.

Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the pharmacy fee fund.";

In the title, in line 10, by striking "board of pharmacy" and inserting "licensure of certain health care professionals"; in line 11, by striking all following the semicolon; in line 12, by striking all preceding "amending", and **SB 33** be passed as further amended.

APPOINTS ESCORTS

In compliance with **HCR 5007**, President Morris appointed Senators Owens and Haley to escort the Supreme Court Justices to the State of Judiciary Joint Session with the House of Representatives on Tuesday, February 10, 2009.

On motion of Senator D. Schmidt the Senate adjourned until 11:00 a.m., Tuesday, February 10, 2009, for a joint session with the House of Representatives. The Senate will reconvene at 2:30 p.m.

Journal of the Senate

TWENTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS Tuesday, February 10, 2009—11:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Quite frequently we hear a Senator say, "I move that an emergency be declared, the rules suspended" and some resolution be passed.

I would like to be able to move that an emergency be declared, the rules suspended and each of the ten commandments be obeyed.

I move that an emergency be declared, the rules suspended, and that no one shall have any other gods before You.

I move that an emergency be declared, the rules suspended, and that no one shall worship any hand made image.

I move that an emergency be declared, the rules suspended, and that no one will misuse the name of God.

I move that an emergency be declared, the rules suspended, and that everyone will keep the Sabbath Day holy.

I move that an emergency be declared, the rules suspended, and that everyone will honor their parents.

I move that an emergency be declared, the rules suspended, and that no one shall commit murder.

I move that an emergency be declared, the rules suspended, and that no one will commit adultery.

I move that an emergency be declared, the rules suspended, and that no one shall steal.

I move that an emergency be declared, the rules suspended, and that no one gives false testimony against their neighbor.

I move that an emergency be declared, the rules suspended, and that no one covets anything belonging to their neighbors.

Most of all, I move an emergency be declared, the rules suspended, and that everyone obey the two greatest commandments: You shall love the Lord your God with all your heart, with all your mind, with all your strength, and with all your soul, and love your neighbor as yourself.

I pray in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated: Assessment and Taxation: **SB 255**. Commerce: **SB 250**, **SB 251**. Federal and State Affairs: **SB 246, SB 247**. Local Government: **SB 245, SB 253, SB 254**. Public Health and Welfare: **SB 248, SB 249**. Ways and Means: **SB 252**.

CHANGE OF REFERENCE

The President withdrew **SB 230** from the Committee on **Ways and Means**, and referred the bill to the Committee on **Financial Institutions and Insurance**.

The President withdrew **SB 222, SB 224** from the Committee on **Judiciary**, and referred the bills to the Committee on **Federal and State Affairs.**

On motion of Senator D. Schmidt, the Senate recessed to go to the House of Representatives to wait for the House members to escort Senators into the Chamber for the message from the Supreme Court. The Senate will reconvene at 2:30 p.m.

AFTERNOON SESSION

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 256, An act concerning pesticides; creating the pesticide safety and education fee fund, by Committee on Federal and State Affairs.

SB 257, An act concerning cities; relating to public improvements outside the city limits; amending K.S.A. 12-693 and repealing the existing section, by Committee on Federal and State Affairs.

SB 258, An act concerning workers compensation; relating to caps on benefits, by Committee on Ways and Means.

CHANGE OF REFERENCE

The President withdrew **SB 223** from the Committee on **Judiciary**, and referred the bill to the Committee on **Federal and State Affairs**.

FINAL ACTION ON CONSENT CALENDAR

SB 1 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

SB 1, William Inge Theatre Festival designated as the official theatre festival of the state of Kansas.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 16, An act concerning the pharmacy act of the state of Kansas; declaring certain acts not to be in violation of said act; amending K.S.A. 65-1636 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala,

Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 31, An act concerning behavioral sciences; relating to continuing education requirements; amending K.S.A. 2008 Supp. 65-6313 and repealing the existing section, was considered on final action.

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

Yeas: Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Petersen, Pilcher-Cook, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Bruce, Ostmeyer, Owens, Pyle, Reitz, Steineger, Wagle. The bill passed.

SB 33, An act concerning the licensure of certain health care professionals; relating to fingerprinting and criminal history record checks; amending K.S.A. 74-1603 and 74-1604 and K.S.A. 2008 Supp. 65-1663 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Pilcher-Cook, Pyle, Steineger, Wagle.

The bill passed, as amended.

SB 97, An act concerning the liquor enforcement tax; relating to violations by retailers; prescribing penalties therefor, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 131, An act concerning technical colleges; relating to the powers and duties of the governing bodies thereof, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

REPORT ON ENGROSSED BILLS

SB 33, SB 97, SB 131 reported correctly engrossed February 10, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Financial Institutions and Insurance** recommends **SB 126** be passed. Also, **SB 137** 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 **Public Health and Welfare** recommends **SB 62** be amended on page 2, in line 31, by striking the comma, where it appears for the third time, and inserting "or";

On page 3, in line 2, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On emergency motion of Senator D. Schmidt, **SB 91** was moved to the top of the calendar under the heading of General Orders.

On motion of Senator McGinn the following report was adopted:

Recommended SB 61, SB 66, SB 70 be passed.

SB 26, SB 73, SB 91 be amended by adoption of the committee amendments, and the bills be passed as amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{3}{2}$ constitutional majority, and SB 26, SB 61, SB 66, SB 70, SB 73, SB 91 were advanced to Final Action and roll call.

SB 26, An act concerning crimes, punishment and criminal procedure; relating to drug offenses; possession of a firearm; sentencing; amending K.S.A. 2008 Supp. 21-4705 and repealing the existing section.

On roll call, the vote was: Yeas 33, Nays 6, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Bruce, Brungardt, Colyer, Donovan, Emler, Francisco, Hensley, Holland, Huelskamp, Kelsey, Kultala, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Brownlee, Faust-Goudeau, Haley, Kelly, Lee, Steineger.

Absent or Not Voting: Reitz.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I VOTE NO ON **SB 26.** During these fiscally austere times, we as a Legislature should practice fiscal restraint and avoid writing "blank checks" which increase our "bed space" count until we know how these expenses affect our overall budget stability.— DAVID HALEY

Senator Kelly requested the record to show she concurs with the "Explanation of Vote" offered by Senator Haley on **SB 26**.

SB 61, An act concerning the department of corrections; relating to the prison-made goods act; providing additional authorization to contract for certain work projects; amending K.S.A. 2008 Supp. 75-5275 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed.

SB 66, An act concerning district courts; relating to change of venue in care and treatment cases for mentally ill persons and care and treatment cases for persons with an alcohol or substance abuse problem; transmittal of documents; amending K.S.A. 59-2971 and 59-29b71 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed.

SB 70, An act concerning trusts; relating to the uniform principal and income act.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed.

SB 73, An act concerning school districts; relating to school finance; amending K.S.A. 2008 Supp. 72-6433 and repealing the existing section; also repealing K.S.A. 2008 Supp. 72-6433c.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp.

Absent or Not Voting: Reitz.

The bill passed, as amended.

SB 91, An act concerning planning and zoning; dealing with vesting of development rights; amending K.S.A. 12-764 and repealing the existing section.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Brownlee, Pyle.

Absent or Not Voting: Reitz.

The bill passed, as amended.

On motion of Senator D. Schmidt the Senate adjourned until 4:00 p.m., Wednesday, February 11, 2009.

Journal of the Senate

TWENTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, February 11, 2009—4:00 p.m.

The Senate was called to order by Vice President John Vratil.

The roll was called with forty senators present.

Vice President Vratil introduced as guest chaplain, Rev. Leon Parker, First Baptist Church of Lyndon, who delivered the invocation:

Almighty God,

It is my prayer to you today that each member of this decision making body will recognize your presence in this place.

When there are issues to be determined and decided and the lines are unclear, I pray that your wisdom will be searched out and that you will make your desire and will very plain to those who seek it.

We are thankful for the men and women who serve us in this state where so many frustrating issues regularly come before them. As we thank them for their leadership and commitment, we thank you for your guidance. May they not lean to their own understanding but to your might and leadership to them. Lead our leaders through the fields of uncertainty and difficulty to places of greater understanding and peace of mind in their decisions.

Please hear our prayer and be gracious to our plea. We serve in each of our positions to bring honor and glory to your name. May we know how best to do that.

It is in the name of Jesus Christ that I pray. Amen

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 259, An act concerning retirement and pensions; relating to the Kansas public employees retirement system; state and school employer contributions; amending K.S.A. 2008 Supp. 74-4920 and repealing the existing section, by Committee on Ways and Means.

SB 260, An act concerning insurance; relating to the recovery of economic or noneconomic loss sustained as a result of an accident while operating an uninsured motor vehicle, by Committee on Ways and Means.

SB 261. An act concerning certain elections; enacting the interstate compact on the agreement among the states to elect the president by national popular vote act, by Committee on Ways and Means.

SB 262, An act concerning emergency medical services; scope of practice of certain attendants; titles of certain attendants; amending K.S.A. 19-4608, 21-2511, 44-1204, 65-6121, 65-6129c, 65-6135, 65-6144, 65-6145 and 66-1810 and K.S.A. 2008 Supp. 8-1001, 65-6001, 65-6112, 65-6119, 65-6120, 65-6124, 65-6129, 75-4364 and 80-2518 and repealing the existing sections, by Committee on Ways and Means.

SB 263, An act relating to insurance; concerning the mandatory reinstatement of certain insurance policies in case of mental incapacity of an insured, by Committee on Federal and State Affairs.

SENATE CONCURRENT RESOLUTION No. 1609-

By Senator Pilcher-Cook

A CONCURRENT RESOLUTION claiming sovereignty under the Tenth Amendment to the Constitution of the United States over certain powers; serving notice to the federal government to cease and desist certain mandates; providing that certain federal legislation be prohibited or repealed; and directing distribution.

WHEREAS, The Tenth Amendment to the Constitution of the United States reads as follows:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."; and

WHEREAS, The Tenth Amendment defines the total scope of federal power as being that specifically granted by the Constitution of the United States and no more; and

WHEREAS, The scope of power defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the states; and

WHEREAS, Today, in 2009, the states are demonstrably treated as agents of the federal government; and

WHEREAS, Many federal laws are directly in violation of the Tenth Amendment to the Constitution of the United States; and

WHEREAS, The Tenth Amendment assures that we, the people of the United States of America and each sovereign state in the Union of States, now have, and have always had, rights the federal government may not usurp; and

WHEREAS, Article IV, Section 4 says, "The United States shall guarantee to every State in this Union a Republican Form of Government", and the Ninth Amendment states that "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people"; and

WHEREAS, The United States Supreme Court has ruled in *New York v. United States*, 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

WHERÉAS, A number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the Constitution of the United States.

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the State of Kansas hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States;

Be it further resolved: That this serve as Notice and Demand to the federal government, as out agent, to cease and desist, effective immediately, mandates that are beyond the scope of these constitutionally delegated powers;

Be it further resolved: That all compulsory federal legislation which directs states to comply under threat of civil or criminal penalties or sanctions or requires states to pass legislation or lose federal funding be prohibited or repealed; and

Be it further resolved: That a copy of this resolution be distributed to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Speaker of the House and the President of the Senate of each state's legislature of the United States of America, and each member of the Kansas Congressional Delegation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated: Agriculture: **SB 256**. Commerce: **SB 258**. Local Government: **SB 257**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS HEALTH POLICY AUTHORITY

February 9, 2009

In compliance with KSA 75-6509, Doug Farmer, Director, State Employee Health Plan, submitted a compact disc (cd) containing the Kansas State Employees Health Care Annual Report.

The Vice President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on SCR 1601.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Masterson introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1816-

A RESOLUTION congratulating the Butler Community College football team.

WHEREAS, Butler Community College's football team won the Top of the Mountains Bowl en route to claiming the 2008 National Junior College Athletic Association national championship; and

WHEREAS, This national championship was the Butler Grizzlies sixth NJCAA national championship and third within the last six years; and

WHEREAS, The 2008 championship was the Grizzlies second national championship in a row, making them the first team in NJCAA history to twice repeat as national champions; and

WHEREAS, Butler head coach Troy Morrell has compiled a 95-11 overall record in nine seasons, including three national titles and eight conference titles; and

WHEREAS, The Grizzlies were led offensively by Randell Bell, who ran 22 times for 87 yards and two touchdowns and was named the game's offensive MVP; and

WHEREAS, Zac Clark who led the Grizzlies with four tackles and two sacks while applying constant pressure on the quarterback, was named the defensive MVP; and

WHEREAS, The team members on offense are quarterbacks Chance Riley and Press Taylor; running backs Randell Bell, Tony Williams, Tywon Hubbard, Delando Henderson, Ricky Jacques, Ricardo Wallen and Lucas Hamm; fullback Taylor Beitler; wide receivers Faron Hornes, Arrison Davis, Edgard Theliar, Jonathan Owens and Tyrece Gaines; offensive linemen Sheldon Barnhardt, Erik Dahl, Ben Blankenship, Chad Modlin, Ty Henry, Matt Bruner, Robert Shapel, Austen Hybsha, DeShawn Smith and Swede Johnson; tight ends Alex Estes, Jordan Voelkar and Nate Larkins; long snapper Eric Hill; punter Zac Stetler; and kicker Logan Ortiz; and

WHEREAS, The team members on defense are defensive linemen Jonathan Massaquoi, Zac Clark, Donald Sanky, Seth Beard, Jeffery Thompson, Garrett Jacobsen and Malcom Sharp; linebackers Jarrett Wright, Deandre Howard, Forlando Johnson and Demonte Hill; and defensive backs LeRoy Smith, Rudell Crim, Brad Briggs, Felix Snipes, Harrison Dreiling, Jared Milo, DeLeon McCord, T.J. Shine, Ryan Downing, Laron Scott and Jovanta Boyd; and

WHEREAS, Butler's coaches Troy Morrell, Steve Braet, Aaron Flores, Tim Schaffner, Chris Jones, Matt Mattox, Paige Anders, John Coslett, Chad Knitter and Darrin SanRomani have provided excellent guidance and leadership in developing this national championship team; and

WHEREAS, The help provided by: student assistants Doug Decoursey and Jarvis Love; team managers Zach Laffery, Steven Adams, Curtis Myers, Josh Huggins, Matt Brown and Nick Montgomery; athletic director Todd Carter and assistant athletic director Matt Jacobs; and head trainer Morgan Sommers was instrumental in the team's success: Now, therefore, *Be it resolved by the Senate of the State of Kansas:* That we congratulate the Butler Community College football team for winning consecutive NJCAA national championships and instilling a tradition of excellence at Butler; and

Be it further resolved: That the Secretary of the Senate be directed to provide seventyfive enrolled copies of this resolution to Senator Masterson for presentation to the team.

On emergency motion of Senator Masterson SR 1816 was adopted unanimously.

REPORT ON ENGROSSED BILLS

SB 26, SB 73, SB 91 reported correctly engrossed February 11, 2009.

REPORT ON ENROLLED BILLS

SCR 1606 reported correctly enrolled, properly signed and presented to the Secretary of State on February 11, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Assessment and Taxation recommends SB 98 be passed. Also, SCR 1602 be adopted.

HB 2026, as amended by House Committee of the Whole, be passed.

Committee on Ethics and Election recommends SB 118 be passed.

Also, **SB 56** be amended on page 3, in line 2, before the comma by inserting "on the ballot envelope"; in line 4, after "statement" by inserting "at the time the ballot is taken from the voter and which statement appears on the ballot envelope"; and the bill be passed as amended.

SB 71 be amended on page 2, in line 2, by striking "account of" and inserting "statement accounting for"; in line 6, by striking "a" and inserting ": (1) A"; in line 13, by striking the period and inserting "; and

(2) a statement of all its receipts and expenditures, showing in detail from whom such moneys, property or other thing of value of \$300 or more were received, and to whom such moneys or property or other thing of value were paid, for what specific purposes each payment was made, and the exact nature of the service rendered in consideration thereof on or before the second day preceding the election for the period beginning 11 days before the election and ending three days before the election."; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 139** be passed, and because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Judiciary** recommends **SB 135**, **SB 156** be passed, and because the committee is of the opinion that the bills are of a noncontroversial nature, be placed on the consent calendar.

Also, **SB 95** be amended on page 1, in line 28, by striking all after the period; by striking all in line 29; in line 34, by striking all after the period; by striking all in line 35; and the bill be passed as amended.

Committee on Ways and Means recommends SB 187 be passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, February 12, 2009.

Journal of the Senate

TWENTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, February 12, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-nine senators present. Senator Donovan was excused. Invocation by Chaplain Fred S. Hollomon: Heavenly Father, This day is the 200th birthday anniversary of Abraham Lincoln who is on top, or near the top, of the list of great American Presidents. And yet, while President, he was vilified probably more than any of our Presidents. Here are just a few of the worst remarks he had to endure: "Vain, weak, hypocritical" His call for troops was denounced as "illegal, inhuman, diabolical" "Idiot, baboon" "Some leaders would be glad to find him hanging from the post in front of the White House." "Gorilla" "Feeble, cowardly, shameful." "No hope for the country except the death of the President and a new administration." "Both conservatives and radicals agreed that Lincoln was a failure as a President" "Tenfold a greater traitor to his country than any southern rebel." You know, O God, that I took each of these quotes from a reliable biography of Lincoln. These are just a few of the vilifications aimed at a man now considered to be one of our greatest presidents. We know that Lincoln often consulted You for wisdom. We thank You for leading him through the bitter criticisms to become the

man who issued the Emancipation Proclamation and, among many other accomplishments, left us the Gettysburg Address.

I pray this in the Name of Jesus Christ.

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 264, An act concerning taxation; relating to levy of taxes; certification to county clerk; amending K.S.A. 2008 Supp. 79-1801 and repealing the existing section, by Committee on Ways and Means.

SB 265, An act concerning energy; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 19-101a and 65-3012 and K.S.A. 2008 Supp. 65-3005, 65-3008a and 66-1,184 and repealing the existing sections; also repealing K.S.A. 19-101m, by Committee on Ways and Means.

SB 266, An act concerning community colleges; relating to the operation and maintenance thereof; amending K.S.A. 71-204 and repealing the existing section, by Committee on Ways and Means.

SB 267, An act concerning elections; relating to voter identification; amending K.S.A. 25-2354 and K.S.A. 2008 Supp. 25-1122, 25-1122d, 25-1123, 25-2908 and 25-3002 and repealing the existing sections, by Committee on Ways and Means.

SB 268, An act concerning elections; amending K.S.A. 2008 Supp. 25-1216 and repealing the existing section, by Committee on Federal and State Affairs.

SB 269. An act concerning civil procedure; relating to covered offenses and conduct giving rise to forfeiture; amending K.S.A. 2008 Supp. 60-4104 and repealing the existing section, by Committee on Federal and State Affairs.

SB 270, An act concerning criminal procedure; relating to the consolidation of community corrections and court services in certain judicial districts; expenses of such office; amending K.S.A. 20-345 and 20-346a and repealing the existing sections, by Committee on Federal and State Affairs.

SB 271, An act concerning counties; relating to bidding requirements on certain contracts; amending K.S.A. 2008 Supp. 19-214 and repealing the existing section, by Committee on Federal and State Affairs.

SB 272, An act concerning criminal procedure; relating to persons incompetent to stand trial; amending K.S.A. 22-3303 and 22-3305 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 273, An act concerning the Kansas expanded lottery act; relating to racetrack gaming facilities; amending K.S.A. 2008 Supp. 74-8734, 74-8744, 74-8747 and 74-8751 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 274, An act establishing the Kansas scenic and heritage backroads act, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to Committees as indicated:

Ethics and Elections: SB 261.

Federal and State Affairs: SB 262.

Financial Institutions & Insurance: SB 260, SB 263.

Judiciary: SCR 1609.

Ways and Means: SB 259.

MESSAGE FROM THE GOVERNOR

February 4, 2009

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Directive No. 09-395 for your information.

Sincerely,

KATHLEEN SEBELIUS Governor

The President announced Executive Directive No. 09-395, Authorizing Expenditure of Federal Funds, is on file in the office of the Secretary of the Senate and is available for review at anytime.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2045**, **HB 2068**, **HB 2085**, **HB 2111**. The House adopts the conference committee report on **H Sub for Sub SB 23**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2045, HB 2068, HB 2085, HB 2111 were thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator D. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1817-

A RESOLUTION adopting rules for the Senate of the State of Kansas for the terms of the Senators commencing with the 2009 regular session of the Legislature and revoking and repealing 2009 Senate Resolution No. 1803.

Be it resolved by the Senate of the State of Kansas: The following rules shall be the rules of the Senate for the terms of the Senators commencing with the 2009 regular session of the Legislature and 2009 Senate Resolution No. 1803 is hereby revoked and repealed.

RULES OF THE SENATE

2009-2012

Rule 1. Time of Meetings. The Senate on the first day of a session shall convene at 2:00 p.m., and at all other times shall convene at 2:30 p.m., unless otherwise ordered by the Senate.

Rule 2. Convening—Quorum. The President shall take the chair at the hour fixed for the convening of the Senate, and the roll shall be called in order to ascertain if a quorum is present. A majority of the Senators then elected (or appointed) and qualified shall constitute a quorum, and, in the absence of a quorum, the Senators present, by majority vote, may take such measures as they shall deem necessary to secure the presence of a quorum.

Kule 3. Absence of Member. No Senator shall fail to attend when the Senate is in session without first obtaining leave of the Senate, unless prevented from attending by sickness or other sufficient cause.

Rule 4. Order of Business. The order of business, following the roll call and prayer by the Chaplain, shall be as follows:

1. Introduction and reference of bills and concurrent resolutions.

- 2. Consideration of messages from the Governor.
- 3. Communications from state officers.
- 4. Consideration of messages from the House of Representatives.
- 5. Consideration of motions to concur or nonconcur.
- 6. Reports of select committees.
- 7. Consent Calendar.
- 8. Final Action on bills and concurrent resolutions.
- 9. Introduction of original motions and senate resolutions.
- 10. Correction and approval of the Journal.
- 11. Consideration of motions and senate resolutions.
- 12. Reports of standing committees.
- 13. General orders.

The presentation of petitions shall be a special order of business on Friday of each week immediately preceding the regular order of business.

Rule 5. Business in Order at Any Time. Messages from the Governor, messages from the House of Representatives, introduction and reference of bills and concurrent resolutions, reports of standing committees and reports of select committees may be received and considered under any order of business.

Rule 6. Special Order. Whenever any bill or other matter is made the special order for a particular day, and shall not be reached or completed on that day, it shall be returned to its place in the General Orders, unless it shall be made the special order for another day. When any special order is under consideration, it shall take precedence over any special order for a subsequent hour of the same day, but such subsequent special order shall be taken up immediately after the previous order has been disposed of. Notation of a special order shall be placed before the first order of business on the calendar for that day, giving

the subject to be considered and the time fixed for its consideration. When that time arrives, other business shall be suspended until the special order has been considered.

Rule 7. Standing Committees. There shall be a standing committee named the Committee on Organization, Calendar and Rules which shall consist of nine members, the chairperson of which shall be the president of the senate, and the vice chairperson of which shall be the majority leader of the Senate. The Vice President of the Senate shall be a member of the committee. Each of the other six members shall be selected separately by the majority political party of the Senate.

No bill or resolution other than resolutions adopting, amending or revoking rules of the Senate or Joint Rules of the Senate and House of Representatives, shall be introduced by or be referred to the Committee on Organization, Calendar and Rules.

The following shall be the other standing committees:

	Number
	nembers
1. Agriculture 2. Assessment and Taxation	9
2. Assessment and Taxation	9
3. Commerce	9
4. Confirmation Oversight Committee	6
5. Education	11
6. Ethics and Elections	
7. Federal and State Affairs	
8. Financial Institutions and Insurance	
9. Interstate Cooperation	7
10. Judiciary	11
11. Local Government	
12. Natural Resources	
13. Public Health and Welfare	
14. Reapportionment	13
15. Transportation	
16. Utilities	11
17. Ways and Means	13

The Committee on Organization, Calendar and Rules shall appoint the members of each committee, shall appoint the chairperson and vice chairperson or vice chairpersons thereof and shall designate the ranking minority member of each committee. The minority leader shall submit recommendations for the appointment of minority members to the standing committees of the Senate to the Committee on Organization, Calendar and Rules. The Committee on Organization, Calendar and Rules shall have a standing subcommittee on calendar which shall be the president of the senate, the vice president of the senate and the majority leader of the Senate. The Majority Leader shall be the chairperson of the subcommittee. The Committee on Organization, Calendar and Rules as the Committee on the subcommittees of the Committee on Organization, Calendar and Rules may establish such other subcommittees of the Committee on Organization, Calendar and Rules may establish such other subcommittees of the Committee on Organization, Calendar and Rules as the Committee deems appropriate.

For the purpose of considering committee member appointments, and appointments of chairpersons, vice-chairpersons and ranking minority members, and for such other purposes as may be authorized by law, by the joint rules of the senate and the house of representatives or by rules of the senate for closed meetings, the Committee on Organization, Calendar and Rules may close its meetings.

The two major political parties shall have proportional representation on each standing committee other than the Committee on Organization, Calendar and Rules. In the event application of the preceding sentence results in a fraction, the party having a fraction exceeding .5 shall receive representation as though such fraction were a whole number.

Rule 8. Special and Select Committees. Special and Select committees of the Senate and the Chairperson thereof shall be appointed by the President.

Rule 9. Standing Committees—Duties of Chairperson, etc. (a) The chairperson of each committee shall preside at all meetings of the committee. The chairperson may designate another member to preside in the absence of the chairperson and vice chairperson.

(b) The chairperson of each committee may call a special meeting of the committee when necessary.

(c) The chairperson shall have full charge of the committee.

(d) The chairperson of each committee shall cause minutes of each meeting of the committee to be prepared, subject to approval of the committee at a later meeting. Minutes shall show the action taken by the committee upon each bill or resolution considered and the amendments if any voted upon and the disposition of each, whether adopted or not. At the request of the author of a bill or resolution or any amendment to a bill or resolution, or on request of any member of the committee, the intent of the author shall be stated in the committee minutes. At the conclusion of each legislative session copies of all committee minutes shall be filed with the Director of Legislative Administrative Services.

Rule 10. Vote in Senate Committee. At the time of taking any action upon any bill or resolution, any member of a committee may demand a division of the vote and the chairperson shall be required to record the results of the vote as a part of the minutes.

Rule 11. Committee Action on Bills and Resolutions. (a) A committee may recommend that the Senate act favorably, unfavorably or without recommendation upon any measure or may recommend amendments to measures referred to it which are germane to the subject of the measure. Committee recommendations shall be made by committee report to the Senate. Committee reports shall be signed by the chairperson, and shall be transmitted to the Senate not later than the second legislative day following the action of the committee.

(b) When a committee fails to report on any bill or resolution following reference to such committee, it may be withdrawn from the committee by an affirmative vote of 24 members of the Senate on a motion made as provided in this subsection. Such a motion shall be made in writing, giving the reasons for withdrawal from the committee. Such motion shall be made under the order of business introduction and notice of original motions and Senate resolutions. Only one bill or resolution may be named in such a motion. The motion shall be read by the reading clerk or the member making the motion and shall be printed in the calendar of the next legislative day under the order of business consideration of motions and Senate resolutions offered on a previous day. The motion shall be considered on the legislative day following the day it is made. If the motion prevails, the bill or resolution shall be placed on the calendar under the order of business General Orders.

 (\hat{c}) Motions to withdraw a bill or resolution from a committee are not subject to amendment or debate.

Rule 12. Adversely Reported Bills and Resolutions. All bills or resolutions adversely reported shall go upon the Calendar for one day, under the head of Bills Adversely Reported. A motion to place an adversely reported bill (or resolution) under the order of business General Orders on the Calendar shall be made when the bill (or resolution) is upon the Calendar and shall be made when Introduction of Original Motions and Senate Resolutions is in order, and that motion shall then lie over until the next legislative day when the order of business Consideration of Motions and Senate Resolutions is reached, but if such motion is defeated once it shall not be renewed. If an adversely reported bill or resolution has been previously referred separately under Rule 32 (authorizing the reference of the same bill or resolution to two or more standing committees), then the motion shall be to return the adversely reported bill (or resolution) with the committee report attached to the next committee to which it was referred. If the motion to place the bill (or resolution) on the Calendar under the order of business General Orders or to return the bill (or resolution) to the next committee of reference shall prevail, then the words "Adversely Reported" shall be printed in a line underneath the title of the bill or resolution, and to prevail such motion shall require an affirmative vote of 24 members of the Senate.

Rule 13. When Bill or Concurrent Resolution Placed on General Orders. When a bill or a concurrent resolution to amend the constitution has been reported to the Senate by a committee with the recommendation that it pass or be adopted, it shall immediately be placed on the Calendar under the order of business General Orders.

Rule 14. Address the President—To Be Recognized—Speak But Twice on the Same Subject. Every Senator rising to debate or to present any matter, shall address the President, and shall not proceed until recognized. When two or more Senators shall address the President at the same time, the President shall name the Senator who is to speak first.

No Senator shall speak more than twice on the same day on the same subject without leave of the Senate.

Rule 15. No Senator Shall Be Interrupted. No Senator, when speaking shall be interrupted except by a call to order by the presiding officer, or by a Senator through the presiding officer, desiring to ask a question. If a Senator speaking yields to a question, the interruption shall be confined solely to such question. Senators shall be referred to as "the Senator from _____" (naming the Senator's home county) followed by the Senator's title and name.

Rule 16. Personal Privilege. Senators raising a point of personal privilege shall confine themselves to remarks which concern themselves personally and shall not address or debate matters under consideration by the Senate.

Rule 17. Questions of Order—How Determined. A question of order may be raised at any time and when a Senator shall be called to order the Senator shall stop speaking until the presiding officer has determined whether the Senator was in order. Every question of order shall be decided by the presiding officer, subject to an appeal to the Senate by any member.

Rule 18. Explaining Votes. Senators may explain their votes only upon the call of their names upon any roll call vote, but not more than two minutes shall be allowed for any explanation. The explanation shall be inserted in the Journal if the Senator makes a request at the time of voting or makes a request of the Secretary of the Senate prior to adjournment, and the written explanation is presented to the Secretary of the Senate during or within two hours following that day's adjournment on the same legislative day. No Senator in explanation without the consent of the other Senator. No written explanation shall contain more than 200 words.

Rule 19. Vote Unless Excused—Contempt. Any Senator, who is directly interested in a question, may be excused from voting, even though there is a call of the Senate. The Senator, who is requesting to be excused from voting, shall state the reasons for the request, occupying not more than five minutes. Such statements shall be made either immediately before or immediately after the vote is called but before the result is announced. The question on excusing any Senator from voting shall be taken without debate and a $\frac{4}{3}$ majority of those voting shall be necessary to excuse the Senator. If a Senator refuses to vote, when not excused, such refusal shall constitute contempt and the President shall, in such case, order the offending Senator before the bar of the Senate and all privileges of membership shall be refused such Senator until the contempt shall be duly purged.

Rule 20. When Not Permitted to Vote. No Senator shall be allowed to vote unless the Senator is seated in the Senator's assigned seat within the Senate chamber when the vote is taken.

Rule 21. Vice President and Filling Certain Vacancies. (a) In the absence of the President, the Vice President shall assume the duties of the President. The President or Vice President may also name any Senator to temporarily perform the duties of the chair, but the Senator so named shall not act as President beyond adjournment, unless by leave of the Senate. A Senator shall not lose the right of voting on any subject while serving or acting as President.

(b) When a vacancy occurs in the office of President and the Legislature is adjourned to a date more than 60 days after the occurrence of the vacancy, the Senate shall meet within 30 days and elect a member to fill the vacancy. The Vice President shall within 10 days of such occurrence issue a call for the meeting at a time not less than 10 days and not more than 20 days after the date of the call.

(c) When a vacancy occurs in the office of Vice President or majority leader of the Senate, and the Legislature is adjourned to a date more than 30 days after the occurrence of the vacancy, the President shall appoint an acting Vice President or acting majority leader to serve until the convening of the next session of the Legislature, at which time the vacancy shall be filled as though the acting interim appointment had not been made.

(d) When a vacancy occurs in the office of minority leader of the Senate and the Legislature is adjourned to a date more than 30 days after the occurrence of the vacancy, the assistant minority leader shall become the acting minority leader to serve until the convening of the next session of the Legislature, at which time the vacancy shall be filled as though the acting minority leader had not so served.

(e) It is the intention of this rule that any person elected, appointed or designated to serve in accordance herewith to fill a vacancy shall exercise all of the duties and powers of the office so filled.

Rule 22. Party Affiliation—Change. If any Senator changes political party affiliation (1) from the political party of such Senator at the time of the Senator's election, or (2) if the Senator was appointed, from the political party of the district convention which elected such person to be so appointed, the following shall apply:

(a) Such Senator shall be removed from all memberships on standing and other committees, from all positions of chairperson or vice chairperson of a standing or other committee, and from any office of the Senate held at the time of such change. The Committee on Organization, Calendar and Rules shall appoint a Senator to fill any vacancy which arises under this subpart (a).

(b) The proportion of Senators from major political parties on each standing committee originally determined under Rule 7 (providing for proportional representation of members of political parties upon standing committees) shall not be altered. The Committee on Organization, Calendar and Rules shall fill each standing committee member position vacated by such Senator by appointing a Senator of the political party from which such Senator changed.

Rule 23. Caucuses May Be Closed. Caucuses of Senate majority and minority parties may be closed.

Rule 24. Motions in Writing. All motions to amend bills and resolutions shall be made in writing, and upon request of any Senator shall be read by the reading clerk before being voted upon. All other motions shall be reduced to writing when desired by any Senator.

Rule 25. Motions Withdrawn. Any motion may be withdrawn by the maker before amendment or decision is made thereon except as the foregoing is modified by Rule 41 (relating to procedure in the committee of the whole).

Rule 26. Motions in Order When Question Under Debate. When a question is under debate, no motion shall be in order, except:

Not Debatable

- 1. To fix time to which to adjourn.
- 2. To adjourn.
- 3. To lay on the table.
- 4. For the previous question.
- Debatable
- 5. To postpone to a day certain.
- 6. To commit to a standing committee.
- 7. To commit to a special committee.
- 8. To commit to the Committee of the Whole.
- 9. To amend.
- 10. To postpone indefinitely.

The several motions specified in this rule shall have precedence in the order named and the first four shall be decided without debate.

Rule 27. Division of Question. (a) If the question in debate contains several points, any Senator may have the same divided, but a motion to strike out and insert shall be indivisible. When a bill or resolution is under consideration in the Senate and after debate is concluded and final action has been announced on the bill or resolution, a request for division of question shall not be in order.

 $(b)\ A$ request for division of question shall be in writing specifying the manner in which the question is to be divided.

(c) The rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert another proposition, nor prevent a subsequent motion simply to strike out; nor shall the rejection of a motion simply to strike out prevent a subsequent motion to strike out and insert.

Rule 28. Reconsideration of Pending Matters. When a question has been once put and decided it shall be in order for any Senator who voted with the prevailing side to move for a reconsideration thereof, but no motion for reconsideration of any vote shall be in order after the bill, resolution, message, report, amendment or motion, upon which the vote was taken, shall have gone out of the possession of the Senate, nor shall any motion for reconsideration be in order unless made on the same day on which the vote was taken or the next legislative day. No question shall be reconsidered more than once.

Rule 29. Previous Questions. Five Senators shall have the right to move the previous question on any bill, resolution, message, report, amendment, or motion. If no amendment is pending the previous question shall be as follows: "Shall the main question be now put?" If the previous question is decided in the affirmative by a majority vote of those present the main question shall be put without further amendment or debate. If amendments are pending a motion for the previous question is adopted, the debate will be closed only upon such amendment. The previous question on other questions than the main question shall be as follows: "Shall the question shall be as follows: "Shall the previous question is adopted, the debate will be closed only upon such a follows: "Shall the question on the (amendment, amendment of an amendment, substitute or other motion affecting same as the case may be) now be put?"

Rule 30. Endorsement on Bills, etc. Before any bill, resolution or petition, addressed to the Senate, shall be received or read, the title of the bill or resolution or a brief statement of the contents of the petition shall be typed on the jacket, with the name of the Senator or committee introducing it.

Rule 31. Introduction of Bills and Concurrent Resolutions. Every bill and concurrent resolution shall be introduced by a Senator, by a committee, on the report of a committee, by message from the House of Representatives, or by proper prefiling as provided by law. For the purpose of introduction, every bill and concurrent resolution shall be placed in the possession of the secretary and the reading clerk shall read the title, except citations of statutes amended or repealed. The reading clerk shall read the name of the sponsor of the bill or resolution if it has a single sponsor. If the bill or resolution has two sponsors the reading clerk shall read the name of the first sponsor together with the words "and others."

Rule 32. Reference of Bills and Resolutions. All bills shall be referred or rereferred to appropriate standing committees or the committee of the whole by the President. Upon the day of its introduction or upon the next legislative day the President shall refer every bill and each concurrent resolution to be referred to the appropriate standing committee or the committee of the whole. Bills or resolutions prefiled under K.S.A. 46-801 et seq. and amendments thereto may be referred by the President to the appropriate standing committee or the committee of the whole at any time subsequent to the prefiling of such bill or resolution with the secretary of the senate. Bills introduced by committees, if germane to the purpose and scope of the committee, may be referred to the Committee of the Whole; otherwise to the appropriate standing committee. All bills making an appropriation shall be referred to the Committee on Ways and Means. The President may refer a bill or resolution to two or more standing committees jointly, or separately, in such order as the President may direct, and such bill or resolution, when so referred, shall be considered by the committees in joint meeting, or by each of the committees separately in the order named in the reference, and when the reference is made jointly, the chairperson of the committee named first shall be chairperson of the joint committee.

Rule 33. Consent Calendar and Recording Reports. Whenever a standing committee is of the opinion that a bill or resolution upon which it is reporting is of non-controversial nature, it shall so state in its committee report. Whenever a bill or resolution is so reported, it shall be placed upon a separate calendar, to be known as the Consent Calendar. Each bill or resolution appearing on the Consent Calendar shall remain thereon for at least two full legislative days before being considered under the order of business Final Action. At any time prior to the call for the vote under the order of business Final Action on a bill or resolution on the Consent Calendar, any member may object to the same as being controversial and the same shall be stricken from the Consent Calendar and take its place on General Orders in the usual order. If no such objection is made prior to the call for such

vote on the bill or resolution, it shall be voted upon with other bills and resolutions under the order of business Final Action but before consideration of other bills or resolutions appearing on the calendar under such order of business.

Rule 34. Final Action on Bills and Concurrent Resolutions. On final action on any bill or concurrent resolution, the reading clerk shall read the title, except citations to statutes amended or repealed. If the bill is reported for final action without debate, the question shall be at once put: "Shall the bill pass?" No debate shall be allowed, and no motion shall be in order except the motion to adjourn, or for a call of the Senate, unless in case where a bill has been ordered to be placed on final action subject to amendment, or to amendment and debate or unless by the unanimous consent of the Senate, amendments may be made and considered. Like procedure shall apply to concurrent resolutions except that the question put shall be: "Shall the resolution be adopted?" On final action, bills and resolutions may be bulked together for roll call unless objection be made by any Senator.

Rule 35. Final Passage by Yeas and Nays. The question upon the final passage of a bill and every concurrent resolution for amendment of the constitution of Kansas or ratification of an amendment to the Constitution of the United States shall be taken by a roll call vote of the yeas and nays, which shall be entered on the Journal, and unless the bill or concurrent resolution receives the number of votes required by the constitution to pass it, it shall be declared lost, except in cases provided for in Rule 36 (relating to the absence of a quorum).

Rule 36. No Quorum on Final Vote—Effect. If, on taking the vote on final action on a bill or concurrent resolution, it shall appear that a quorum is not present, then the bill or concurrent resolution shall retain its place on the Calendar and shall again be considered for final action when that order of business is again taken up by the Senate.

Rule 37. Roll Call Vote. A roll call vote shall be taken upon all questions upon the demand of five Senators.

Rule 38. Call of Senate—When Made—How Enforced. A call of the Senate may be had upon the demand of five Senators, pending a roll call on the final passage of any bill or resolution, or on any motion to strike the enacting clause, or indefinitely postpone any bill or resolution, and before the result is announced. When a call is demanded, the President shall order the doors of the Senate to be closed, and direct the Secretary to call the roll of the Senators and note the absentees, after which the names of the absentees shall be again called, and those for whose absence no sufficient excuse is given may be sent for and taken into custody by the Sergeant at Arms, or by Assistant Sergeants at Arms appointed for the purpose, and brought before the bar of the Senate, where unless excused by a majority of the Senators present, they shall be reproved by the President for the neglect of duty.

Rule 39. Dispense with Further Proceedings under Call of Senate. No motion to dispense with further proceedings under the call of the Senate shall be entertained until the President shall be satisfied that the Sergeant at Arms has made diligent effort to secure the attendance of the absentees.

Rule 40. Roll Call Votes. Every Senator in the Senate chamber when a roll call is taken shall respond when the Senator's name is called. If there is a call of the Senate, the Senator must vote Yea or Nay, except as provided in Rule 19 (senators excused from voting if directly interested in the question). When there is no call of the Senate, the Senator may pass and shall be recorded in the Journal as present and passing. After the roll is completed and before the roll is closed, a Senator may change such Senator's vote. No vote shall be recorded and no change in vote may be made without unanimous consent of the Senate after an nouncement by the presiding officer that the roll is closed.

Rule 41. Committee of the Whole. On motion the Senate may go into Committee of the Whole. The President shall appoint a chairperson to preside over the Committee of the Whole. The rules of the Senate shall be observed in the Committee of the Whole, so far as applicable except that there shall be no limit on the number of times of speaking and Rule 38 (authorizing a call of the senate) shall not apply. A motion to lay on the table or a call for the previous question shall not be in order. No substitute motion to amend a bill or resolution shall be in order. A substitute motion to report a bill or resolution to the full Senate once made shall be decided subject only to debate and Rule 51 (motion to strike the

enacting or resolving clause). A roll call shall be had on any question subject to the requirements of Rule 37.

Rule 42. No Quorum in Committee of the Whole—Procedure. If at any time, when in Committee of the Whole, it be ascertained that there is no quorum present, the chair-person shall immediately vacate the chair and report the fact to the President.

Rule 43. How Bills or Resolutions Considered—Committee of the Whole. Bills or resolutions shall be considered in Committee of the Whole in the following manner: The standing committee report shall first be considered and if it is adopted the bill or resolution as amended by the committee report shall be considered section by section, and as each section is considered, amendments from the floor are in order to that section. If the committee report is not adopted, the bill or resolution, without committee amendments, shall be considered section by section, and as each section is considered section by section, and as each section is considered amendments from the floor are in order to that section. After a section has been considered, no amendment thereto shall be in order until the whole bill or resolution has been read through. After the original bill or resolution, together with standing committee amendments, has been considered section by section the chairperson shall announce "Amendments to the bill (or resolution) generally are in order," and amendments not before offered may be made to any part of the bill or resolution. A motion to amend the bill or resolution shall not be in order while a motion to strike the enacting clause or resolving clause is pending.

Rule 44. Amendments. (1) Amendments to bills shall be germane to the subject of the bill being amended, and the fact that an amendment is to a section in the same chapter of the Kansas Statutes Annotated as an existing section in the bill shall not automatically render the amendment germane. Amendments to concurrent resolutions for amendments of the constitution of Kansas or ratification of an amendment to the Constitution of the United States shall be germane to the subject of the resolution being amended.

(2) All amendments to bills or resolutions shall be submitted in writing on a form provided by the Senate or on a form substantially similar. All amendments to printed bills or resolutions shall specify the page and line number as shown on the printed bill or resolution. If a bill or resolution has not been printed, amendments must refer to the typed bill or resolution. All amendments offered, whether adopted or rejected, together with the action taken thereon, shall be recorded in the Journal. When a bill or resolution has been amended, it shall be engrossed before it is enrolled.

(3) In the case of amendment by substitute bill or by substitute concurrent resolution, motion shall be made to substitute a written bill or concurrent resolution for the bill or concurrent resolution under consideration.

Rule 45. Report of Committee of the Whole Subject to Amendment—Time for. The report of the Committee of the Whole is subject to amendment to correctly reflect what has occurred in the Committee of the Whole by motions made at the time the report is offered for adoption by the Senate. When a bill is reported with the recommendation that the enacting clause be stricken, and the report is agreed to by the Senate, the bill shall be considered killed.

Rule 46. Motion for Committee of the Whole to Arise and Report Progress. A motion that the Committee of the Whole shall rise and report progress on any bill shall always be in order and shall be decided without debate, and the matter being considered shall be the first order of business at the next session of the committee, subject to such postponement as the subsequent Committee of the Whole may determine.

Rule 47. Division of the Senate. Whenever a voice vote has been taken upon any question in either the Senate or the Committee of the Whole, any Senator may call for a division of the Senate or Committee of the Whole.

Rule 48. Bills and Resolutions to Final Action. When the Committee of the Whole shall favorably report a bill or resolution, and the report is adopted by the Senate, the bill or resolution shall be considered as ordered to the order of business Final Action. The vote upon the final passage of the bill shall not be taken on the same day on which the bill is placed on Final Action. Bills and resolutions to be sent to the House shall be properly corrected under the supervision of the Secretary of the Senate. The Secretary of the Senate is authorized to correct misspelled words, punctuation and "doublets" or repeated words

when preparing bills, resolutions or other documents for signature by officers of the Senate and House.

Rule 49. Bills and Resolutions—Inclusion of Amendments. When a bill or resolution is amended, the Secretary of the Senate shall attach to the original copy all amendments made in the Senate. Substitute bills and substitute concurrent resolutions shall accompany the bill or concurrent resolution for which each is substituted. Upon passage, Senate bills or resolutions, including the original copy and amendments, shall be transmitted to the House.

Rule 50. Reports of Transmittals in Journal—Committee—Reports. Report of transmittal of bills and resolutions to the House shall be immediately entered upon the Journal.

Rule 51. Motion to Strike Enacting or Resolving Clause—Debate Limited. No Senator may speak more than twice on a motion to strike the enacting clause of a bill or the resolving clause of a resolution, and no other motion, except a motion to adjourn, shall be in order until the motion to strike the enacting clause or resolving clause has been decided by roll call vote.

Rule 52. Two-thirds Vote Not Necessary Except on Final Passage of Resolution. When a resolution requiring a vote of $\frac{3}{3}$ of the Senate for adoption is under consideration, a vote of $\frac{3}{3}$ shall not be needed to decide any question short of its final passage, except as provided by these rules.

Rule 53. Bills Considered in Regular Order. The Subcommittee on Calendar of the Committee on Organization, Calendar and Rules shall designate from day to day and from time to time the bills to be considered that day and on the next legislative day, and the order of consideration fixed by this subcommittee shall not be changed, except by unanimous consent or by a ²/₃ vote of all the members of the Senate then elected (or appointed) and qualified, if unanimous consent is refused.

Rule 54. Changing Order on Calendar. Not more than one bill may be named in a motion to change the order of the Calendar, and on each motion no Senator except the Senator making the motion shall speak more than once, nor longer than five minutes.

Rule 55. Resolutions—Classes—Procedures Thereon. Resolutions shall be of the following classes: (1) Senate resolutions; and (2) Senate concurrent resolutions. In acting on them, the Senate shall observe the following procedure:

(1) Senate resolutions shall be in writing, shall be read and shall lie over one day. Senate resolutions other than resolutions for the amendment of rules of the Senate shall not be printed unless ordered by the Senate. There shall be no roll call unless ordered. With the consent of the majority of Senators present and voting, either the requirement to read Senate resolutions or the requirement to lie over one day, or both, may be dispensed with.

(2) Senate concurrent resolutions shall be in writing, shall be read by title, and shall lie over one day. All Senate concurrent resolutions shall be printed, and shall require a roll call on motion to adopt. Propositions to amend the constitution shall be made by concurrent resolution and referred to the proper committee. Other concurrent resolutions may be referred to a proper committee by the President.

All House concurrent resolutions, when in the Senate, shall follow the same procedure as Senate concurrent resolutions.

This rule shall not apply to resolutions relating to the business of the day, nor to resolutions for organization or adjournment.

Rule 56. Confirmation of Appointments by Governor or Other State Official. All nominations or appointments made by the governor or other state official, which are subject to Senate confirmation, may be considered and acted upon by the Senate in either executive or regular session except that no final action thereon may be taken in executive session. When nominations or appointments are made by the governor or other state official for confirmation by the Senate, they shall, unless otherwise ordered by the President, be referred to appropriate committees by the President. Nominations or appointments referred to committees shall be returned to the Senate within 20 legislative days after the same are referred, together with a report thereon, unless additional time be granted by a majority vote of senators present. If the nomination or appointment is not returned to the Senate within the period of time specified for its return and additional time has not been granted,

the nomination or appointment shall be considered to be returned to the Senate without recommendation on the next legislative day following the last day of the period of time specified for its return. Any such appointment may be considered and acted upon by the Senate at any time after the nomination or appointment is returned to the Senate. No motion to confirm any such appointment or nomination shall be in order without the unanimous consent of the Senate until the nomination or appointment is returned to the Senate, unless one day's previous notice thereof is given in open session. Appointments shall be confirmed by the Senate only by an affirmative vote of a majority of all members of the Senate then elected (or appointed) and qualified.

Rule 57. Admittance to Floor-Lobbying on Floor-Galleries. No person shall be admitted to the floor of the Senate except elective state officers; members of the Legislature; friends of the members of the Senate, upon invitation signed by the President and the Senator extending the invitation; former members of the Senate, officers and employees of the legislative branch, and members of the news media who are actually employed, and who have a card of admission from the President. The Senate by resolution, may issue such invitations as it desires. Persons so admitted must stay in the perimeter of the Senate chamber except with the express permission of a member of the Senate. No one registered with the Secretary of State as an agent or lobbyist may be on the floor of the Senate during the hours of 9:30 a.m. to 4:30 p.m. nor at the time the Senate is in session. No person, other than a state officer or employee of the legislative branch or legislator, shall discuss any measure with any Senator on the floor of the Senate during the time the Senate is in session. Any person who violates this rule or any person who shall gain admission to the floor of the Senate by false representation shall be forthwith ejected from the Senate chamber and thereafter be denied admission. No employee shall lobby for or against any measure pending in the Senate, and any employee violating this rule shall be forthwith discharged. Former members of the Senate may be introduced when on the floor, but no other introductions shall be made during the session of the Senate, except the President may announce the attendance of school students or other groups visiting the Senate.

Visitors shall be allowed in one or both galleries of the Senate in accordance with directions to the Sergeant at Arms from the President.

Rule 58. Electronic Devices. The use of telephones and the making of telephone calls in the galleries of the Senate are prohibited. Except for security personnel, the use of wireless electronic telecommunications devices emitting an audible sound or tone to announce or initiate communications in a committee room during any time when a committee or subcommittee is in session in the room, in the galleries during any time when the Senate is in session and in the Senate Chamber during any time the Senate is in session is prohibited. The use of video recorders or other video equipment in the galleries is prohibited.

Rule 59. Chairs of Senators. No person except a member of the Senate, shall occupy the chair of any Senator at any time except with the approval of and in the presence of a member of the Senate.

Rule 60. The News Media. Employees of the news media having a card of admission from the President may occupy space designated for them in the Senate chamber. They shall be subject to all the rules of the Senate and shall conduct themselves with proper decorum while in the Senate chamber. They shall not lobby, directly or indirectly, for or against any measure pending before the legislature.

Rule 61. Secretary of Senate—Duties. The Secretary of the Senate shall be appointed by the President. It shall be the duty of the Secretary to call the roll; report correctly the result of all votes; correct the Journal as may be directed by the Senate; read all bills, resolutions, petitions or other papers which the Senate may require; deliver all messages to the House of Representatives; certify all enrolled bills and present same to the President or Vice President of the Senate for signature; endorse upon every paper presented in the Senate the successive stages of action had thereon, and see that proper records are made of the transmission of every paper from one house to the other, or from one office to another; and attend generally to such other matters as the office may require. The Secretary of the Senate shall deliver to the printer all bills and other documents ordered to be printed and take the receipt of the printer therefor. In order to secure a uniform and systematic procedure, the following clerks and their assistants shall be under the supervision of the Secretary: Assistant Secretary of the Senate, Journal Clerks, Calendar Clerks, Enrolling Clerks, Bill Status Clerk, Reading Clerk and Bill Clerk.

Rule 62. Impeachment. The provisions of this rule shall apply to impeachment, and nothing in the rules of the Senate or in any statute shall impair or limit the powers of the Senate with respect to impeachment. In addition to other powers, the President shall possess the powers and perform the duties in this rule.

 $(\hat{1})$ The President shall call the Senate into session within 30 days of the receipt by the President of any request by a board of managers of the House of Representatives to lay articles of impeachment before the Senate.

(2) The Senate by a majority vote of the members then elected (or appointed) and qualified may adopt, amend or suspend rules applicable to trial of any impeachment.

(3) The President and any officer or committee acting under authority of this rule may follow any statutory procedure to the extent the same is not in conflict with the provisions of this rule, but nothing in this rule nor in any statute shall be deemed to constitute a waiver of any inherent powers of the Senate.

Rule 63. Sergeant at Arms—Duties. The Sergeant at Arms shall be appointed by the President, and shall serve under the President's direction, control and supervision and at the President's pleasure and shall execute all orders of the President or Senate. The Sergeant at Arms shall have the general supervision of the Senate Chamber, the cloak rooms, gallery and lobby, and shall preserve order within the chamber at all times. The Sergeant at Arms may arrest and take into custody any person gaining admission to the floor of the Senate through false representations or violation of Rule 57 (listing persons authorized to be admitted to the floor of the Senate). All violations shall be immediately reported to the President for action by the Senate. No person except those entitled to admittance on the floor of the Senate) shall lounge or loaf in the Senate chamber when the Senate is not in session, and the Sergeant at Arms shall detail at least one assistant to remain in the chamber at all times when the same is open. The President may appoint and remove Assistant Sergeants at Arms.

Rule 64. Requisitions for Printing. All requisitions upon the Director of Printing for calendars, bills, documents, and printed matter of any nature whatsoever, must be approved by the Director of Legislative Administrative Services.

Rule 65. Employees—Duties. All employees shall report each day to their respective supervisors. The Director of Legislative Administrative Services or some person designated by the director shall keep a record of the attendance of each employee. The Director of Legislative Administrative Services may discharge any employee at any time. The word "employee" as used in this section shall include all persons employed by the Senate, except the secretaries of each of the members of the Senate and except the Secretary of the Senate.

Rule 66. Pages. Not more than 20 pages shall serve during any legislative day. Appointments shall be restricted to boys and girls of junior high or high school age.

Rule 67. Secretaries to Members. Each Senator shall be entitled to select a secretary and shall inform the Director of Legislative Administrative Services of the selection. The secretaries shall not be paid for time they are not in attendance unless excused by their respective Senators. From the convening of the Senate until adjournment on any day, except during recesses, no Senator's secretary shall be stationed at the Senator's desk, except that this provision shall not apply to the administrative assistant designated by the President.

Rule 68. Suspension of Rules. (a) A motion to suspend the rules may be made and considered under any order of business. A ³/₂ affirmative vote of all Senators then elected (or appointed) and qualified shall be required for its adoption. The motion shall be decided without debate.

(b) A motion to declare an emergency, suspend the rules, and advance a bill to Final Action shall be considered as one motion. It may be made and considered immediately under any order of business, and be debatable on the question of the emergency. A $\frac{2}{3}$ affirmative vote of all Senators then elected (or appointed) and qualified shall be required for its adoption.

(c) A bill advanced to Final Action under subsection (b) which is not considered during the legislative day on which it is advanced to Final Action shall be placed on the next legislative day on the Calendar under the order of business General Orders.

Rule 69. Amendments to Rules. No rule of the Senate shall be adopted, amended or revoked without the affirmative vote of a majority of all members of the Senate then elected (or appointed) and qualified, and no motion to adopt, amend or revoke any rule of the Senate shall be in order without the unanimous consent of the Senate, unless one day's previous notice thereof shall be given in open session.

Notwithstanding any provision of the rules of the Senate to the contrary, no notice shall be required for the adoption of a resolution adopting, amending or revoking any one or more rules of the Senate at the commencement of a legislative session, and adoption of any such resolution shall require only the affirmative vote of not less than a majority of the Senators then elected (or appointed) and qualified, subject to the following conditions: (1) The resolution is sponsored by the President or any three Senators, and (2) either (a) a copy thereof is mailed to each Senator by deposit in the United States mails not later than 11:00 p.m. on the Thursday preceding the Monday on which the legislative session is to commence or (b) in lieu of mailing copies of the resolution are made available to Senators on the first day of the legislative session and Final Action is taken on the second legislative day.

Rule 70. Robert's Rules of Order. In all cases where these rules or the joint rules of the Senate and House of Representatives do not apply, the rules of parliamentary law in Robert's Rules of Order Newly Revised shall govern.

Rule 71. Number Designation of Substitute Bills and Substitute Concurrent Resolutions. (a) Whenever a substitute bill is recommended by a committee report, and whenever a substitute bill is approved by amendment from the floor, the substitute bill shall be printed as provided for bills introduced, and the bill number designation shall be substantially as follows:

(1) In the case of bills substituted for Senate bills, "Substitute for Senate Bill No._____," and the blank shall be filled with the number of the bill for which substitution is made or recommended.

(2) In the case of bills substituted for House bills, "Senate Substitute for House Bill No._____," and the blank shall be filled with the number of the bill for which substitution is made or recommended.

(b) Whenever a substitute concurrent resolution is recommended by a committee report, and whenever a substitute concurrent resolution is approved by amendment from the floor, the substitute concurrent resolution shall be printed as provided for concurrent resolutions introduced, and the resolution number designation shall be substantially as follows:

(1) In the case of concurrent resolutions substituted for Senate concurrent resolutions, "Substitute for Senate Concurrent Resolution No. _____," and the blank shall be filled with the number of the concurrent resolution for which substitution is made or recommended.

(2) In the case of concurrent resolutions substituted for House concurrent resolutions, "Senate Substitute for House Concurrent Resolution No. _____," and the blank shall be filled with the number of the concurrent resolution for which substitution is made or recommended.

Rule 72. General Rule Not to Read Amendments. Amendments to bills or resolutions shall not require readings as for bills introduced or resolutions introduced, except as otherwise provided in Rule 73 (subject matter of bill or resolution materially changed by senate amendment) or 74 (subject matter of senate bill or resolution materially changed by house amendment).

Rule 73. Subject Change by Senate. Whenever an amendment adopted by the Senate has materially changed the subject of a bill or resolution, the title of the bill or resolution so amended shall be read in the manner prescribed for the introduction of bills or resolutions, and take its place upon the Calendar under the order of business Final Action.

Rule 74. Subject Change by House. Whenever the House adopts amendments to a Senate bill or senate concurrent resolution which materially changes its subject, upon return of such bill or resolution to the Senate, the title of such bill or resolution shall be read in

the manner prescribed for the introduction of bills or resolutions and such bill or resolution shall be referred as provided in Rule 32 (reference of bills and resolutions).

Rule 75. Determination of When Subject of Bill or Resolution Materially Changed. The President may determine when a bill or resolution is subject to Rule 73 (subject matter of bill or resolution materially changed by senate amendment) or 74 (subject matter of senate bill or senate concurrent resolution materially changed by house amendment).

Rule 76. Executive Reorganization Orders. When an executive reorganization order is received from the Governor, it shall be referred to an appropriate committee by the President. The committee to which an executive reorganization order is referred shall report its recommendations thereon, by recommending adoption of a Senate resolution, not later than the 60th calendar day of any regular session and not later than 30 calendar days after it has received such referral whichever occurs first. If a committee fails to report upon an executive reorganization order within the time specified in this rule, such committee shall be deemed to have returned the same to the Senate without recommendation. When a report or return of an executive reorganization is made, it and all resolutions for approval or disapproval thereof shall be made the special order of business in accordance with Rule 6 (special order of business) at a time not later than the last day the executive reorganization order may be disapproved under section 6 of article 1 of the Constitution of Kansas. The Senate shall act to approve or reject every reorganization order unless at the time set for such action the House of Representatives shall have already rejected such executive reorganization order.

Rule 77. Censure or Expulsion. Whenever three or more Senators desire to lodge a complaint against any other Senator requesting that the Senator be censured or expelled for misconduct, the complaining Senators shall sign and file a written statement of such complaint with the Secretary of the Senate. In such event, the President shall appoint a select committee for consideration thereof composed of five Senators, no more than three of whom shall be members of the same political party, and none of whom shall have signed the complaint to be considered. The select committee may dismiss the complaint after inquiry or may set the matter for hearing. Reasonable notice and an opportunity to appear shall be afforded the Senator against whom a complaint has been filed. Select committees meeting under authority of this section shall be authorized to meet and exercise compulsory process without further authorization, subject only to the limitations and conditions prescribed in article 10 of chapter 46 of Kansas Statutes Annotated. Upon completing its hearing and deliberations thereon the select committee may dismiss the complaint or may submit a recommendation to the full Senate for censure or expulsion, and upon receiving such report the Senate may without further hearing or investigation censure or expel the member against whom the complaint was filed. Censure or expulsion of a Senator under this rule shall require a ²/₃ majority vote of those members elected (or appointed) and qualified.

Rule 78. Taking From the Table. The affirmative vote of a $\frac{2}{3}$ majority of all Senators then elected (or appointed) and qualified shall be required for the adoption of a motion to take any question or proposition from the table after the adoption of a motion to table or lay such question or proposition on the table. The provisions of this rule shall apply to motions both in standing committees and the Senate.

Rule 79. Placing Material on Members' Desks. No items or material shall be placed upon the desk of any member of the Senate unless any such item or material bears the signature or name of the Senator responsible for its distribution. This Rule 79 shall not apply to items or material provided by legislative staff, the Governor or state agencies.

Rule 80. Decorum. During the time the Senate is in session professional dress is required on the floor of the Senate.

On emergency motion of Senator D. Schmidt SR 1817 was adopted unanimously.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SCR 1601**, submits the following report: The Senate accedes to all House amendments to the concurrent resolution, and your committee on conference further agrees to amend the concurrent resolution, as printed with House Committee amendments, as follows:

On page 5, in line 1, by striking all after "is"; in line 2, by striking all before the first "or" and inserting "an agree to disagree coupled with a request that a new conference committee be appointed"; in line 3, by striking all after "house"; by striking all in lines 4 through 12; in line 13, by striking all before the period and inserting "electronic and paper copies of the report shall be made available to all members of the house considering the report not later than 30 minutes before the time of its consideration, except that if the report is more than six pages in length no paper copies will be required to be distributed to individual members provided that at least 10 paper copies of the respective house. By written notice, the majority leader may direct the clerk or secretary to increase from six pages to some greater number of pages the size of conference committee reports that need not be distributed by paper copies to individual members provided members pursuant to this rule";

On page 7, in line 32, by striking "28" and inserting "25";

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

CLARK SCHULTZ LANCE KINZER TOM SAWYER Conferees on part of House

STEPHEN R. MORRIS DEREK SCHMIDT ANTHONY HENSLEY Conferees on part of Senate

Senator D. Schmidt moved the Senate adopt the Conference Committee Report on **SCR** 1601.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Donovan.

The Conference Committee report was adopted.

FINAL ACTION ON CONSENT CALENDAR

SB 161 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

SB 161, An act concerning recreation commissions; amending K.S.A. 2008 Supp. 12-1928 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Colyer, Donovan.

The bill passed.

EXPLANATION OF VOTE

MR. PRESIDENT: I believe it is important to permit city and school district recreation commissions to establish petty cash funds. This is why I vote in favor of **SB 161**.—TERRY BRUCE

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Lynn and Pilcher-Cook introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1818-

A RESOLUTION commending and recognizing Gene Amos.

WHEREAS, Gene Amos has resided in Johnson County since 1945; and

WHEREAS, Gene Amos joined Rotary in 1952 and has served Rotary in many ways including service as Club President and District Governor; and

WHEREAS, Gene Amos is a charter member of the Shawnee Optimist Club, whose slogan is "Friend of Youth", and served in many ways, including being the club's first secretary-treasurer and later as District Governor; and

WHEREAS, Gene Amos was elected to the Shawnee Grade School Board of Education and served for 6 years prior to school district unification; and

WHEREAS, Gene Amos was elected to the Shawnee Mission Board of Education following unification and served from 1969 to 1975; and

WHEREAS, Gene Amos was elected to the Kansas House of Representatives and served three terms from 1987 to 1993; and

WHEREAS, Gene Amos has been "of service" to many business, civic, faith, fraternal, historical and patriotic organizations in Shawnee and Lenexa in numerous ways; and

WHEREAS, Gene Amos exemplifies Rotary's two mottos: "Service above Self" and "He profits most who serves best" in all that he says and does; and

WHEREAS, Gene Amos, by example, instills in all whom he meets the value of service to others as a worthy pursuit: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize Gene Amos to be an outstanding citizen of Kansas and our country and as a role model for all who aspire to be "of service".

On emergency motion of Senator Lynn SR 1818 was adopted unanimously.

Gene Amos was a guest and was honored with a standing ovation. He was accompanied by his wife, Margaret; children, Joni Pflumm, Gregg Amos and Amy Ruo; son-in-law, John Ruo; grandchildren, Toni and Philip Ruo; sister, Mona Upton and friends.

Senators Hensley, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, and Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1819-

A RESOLUTION commemorating the bicentennial of President Abraham Lincoln's birth. WHEREAS, Abraham Lincoln was born on February 12, 1809, in Hardin County, Kentucky, to Thomas Lincoln and Nancy Hanks, in a one-room log cabin, making him the first president born outside the original Thirteen Colonies; in 1816, the Lincoln family was forced to move due to economic hardship to Perry County, Indiana, where his mother died when he was nine years old; in 1830, after more economic difficulties, the family settled on public land in Macon County, Illinois; and

WHEREAS, Lincoln began his political career in 1832, at age 23, with an unsuccessful campaign for the Illinois House of Representatives, as a member of the Whig Party; in 1834, he won election to the Illinois House, where he served four consecutive terms and was admitted to the bar in 1836; two years later, he made his first protest against slavery, stating that the institution was "founded on both injustice and bad policy." On November 4, 1842, Lincoln married Mary Todd in Springfield, Illinois, and they had four sons, only one of which, Robert Todd Lincoln, survived into adulthood; and

WHEREAS, In 1846, Lincoln was elected to one term in the U.S. House of Representatives after which he returned to Springfield to resume his law practice, which involved extensive travel on horseback from county to county. As a lawyer, he earned the nickname "Honest Abe" because he refused cases he could not conscientiously defend. Opposed to the 1854 Kansas-Nebraska Act, Lincoln's re-entry into public life came when he gave a speech to a crowd in Peoria, Illinois, outlining his moral, political and economic arguments against slavery that he would continue to uphold throughout his career; and

WHEREAS, In the 1856 election, Lincoln was instrumental in forming the new Republican Party and, in 1858, he accepted the Republican nomination for U.S. Senate and delivered his famous speech, "A house divided against itself cannot stand. I believe this government cannot endure permanently half slave and half free." His opponent was Illinois Democrat Stephen A. Douglas and the campaign featured the Lincoln-Douglas debates; while Lincoln lost the election, his speeches in these debates transformed him into a national political figure; and

WHEREAS, In 1860, Abraham Lincoln was nominated as the Republican Party's candidate for President and on November 6, 1860, he defeated his rival Douglas, among others, and was elected 16th President of the United States and the first President elected from Illinois. On February 22, 1861, President-elect Lincoln, visiting Independence Hall in Philadelphia en route to his inauguration, raised a new American flag containing 34 stars after the admission of Kansas as the 34th state less than one month before, on January 29, 1861; and

WHEREAS, On December 20, 1860, South Carolina seceded from the Union and was followed by ten other southern states; the eleven states declared themselves to be a new nation, the Confederate States of America. At Lincoln's inauguration on March 4, 1861, a sizeable garrison of federal troops was present, ready to protect the capital from Confederate invasion; and

WHEREAS, President Lincoln's tenure in office was occupied primarily with the defeat of the Confederate States of America in the nation's Civil War and he closely supervised the war effort, especially the selection of top generals. He was also successful in uniting the factions of the Republican Party, bringing leaders of each faction into his cabinet and forcing them to cooperate. He introduced measures that resulted in the abolition of slavery, issuing his Emancipation Proclamation in 1863 and promoting the passage of the Thirteenth Amendment to the Constitution, which passed Congress before his death and was ratified by the states later in 1865; and

WHEREAS, The Battle of Gettysburg was a Union victory, it was also the bloodiest battle of the Civil War causing massive casualties to the Union Army. On November 19, 1863, at Soldiers' National Cemetery in Gettysburg, Lincoln delivered brief remarks not only to dedicate the grounds of the cemetery, but also to consecrate the living in the struggle "that we here highly resolve that these dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth;" and

WHEREAS, In 1864, the National Union Convention nominated Lincoln for President and Andrew Johnson, a Democrat from Tennessee, for Vice President in order to broaden the war coalition. They ran on the Union Party ticket, uniting Republicans and pro-Union Democrats, and easily won the 1864 election in a landslide. In his second inaugural address on March 4, 1864, President Lincoln said, "Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away;" and

WHEREAS, On April 9, 1865, after four years of Civil War, an estimated 630,000 deaths and over 1 million casualties, General Robert E. Lee surrendered the Confederate Army of Northern Virginia to General Ulysses S. Grant, in the town of Appomattox Court House, Virginia. President Lincoln gave instructions to "Let them down easy;" and

WHEREAS, On April 14, 1865, while attending the play *Our American Cousin* at Washington's Ford Theater, President Lincoln was shot by John Wilkes Booth and never regained consciousness. He died on April 15, 1865. At Lincoln's death, Secretary of War Edwin Stanton remarked, "Now he belongs to the ages. There lies the most perfect ruler of men the world has ever seen." Lincoln was the first President to be assassinated or to lie in state and his body was carried by train in a grand funeral procession through several states on its way home to Illinois, which later adopted as its state nickname *Land of Lincoln*; and

WHEREAS, Historians have ranked Abraham Lincoln one of the greatest Presidents in our nation's history. Inscribed on the Lincoln Memorial are the words: "In this temple, as in the hearts of the people for whom he saved the Union, the memory of Abraham Lincoln is enshrined forever." Beneath these words, the 16th President—the Great Emancipator and preserver of the nation during its greatest crisis—sits immortalized in marble: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we commemorate February 12, 2009, as the bicentennial of the birth of President Abraham Lincoln; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to the Lincoln Illinois Bicentennial Commission c/o the Abraham Lincoln Presidential Library and Museum, 112 North Sixth Street, Springfield, Illinois 62701.

On emergency motion of Senator Hensley SR 1819 was adopted unanimously.

Senators Haley and Faust-Goudeau introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1821-

A RESOLUTION commemorating the 100th anniversary of the founding of the NAACP.

WHEREAS, The National Association for the Advancement of Colored People, or the NAACP, was established on February 12, 1909 (the centennial of the birth of President Abraham Lincoln) in New York City by W.E.B. Du Bois and other members of the Niagara Movement; and

WHEREAS, Publicizing the issue of equality through lobbying efforts through the court system, the media and mainstream press and through other organizations is the advocacy of the NAACP; and

WHEREAS, The NAACP's successful struggles against injustices include:

- organizing a nationwide protest of D.W. Griffith's racially inflammatory and bigoted and silent film, *Birth of a Nation*
- defeating a grandfather clause that was used against black voters in the South in 1915 and an all-white primary in 1927
- making it possible for African Americans to be commissioned as officers in World War I, leading to 600 African Americans receiving commissions
- NAACP lawyers Charles Hamilton Houston and Thurgood Marshall winning the legal battle to admit a black student to the University of Maryland in 1935
- moving the concert of acclaimed soprano Marian Anderson to the Lincoln Memorial, where over 75,000 people attended, after the Daughters of the Revolution barred her from performing at Constitution Hall in Washington D.C.
- persuading President Harry Truman to sign an Executive Order in 1948 that banned discrimination by the federal government
- successfully arguing the case of *Brown v. Board of Education of Topeka* in front of the United States Supreme Court. Considered the NAACP's greatest legal victory, the case was presented by future United States Supreme Court Justice Thurgood Marshall and found that state laws that separated public schools for black and white students denied *all* children equal educational opportunities
- serving as the catalyst for the largest grassroots Civil Rights Movement to date, when NAACP member Rosa Parks was arrested and fined for refusing to give up her seat on a segregated bus in Montgomery, Alabama in 1955
- organizing the first ever sit-ins at segregated lunch counters in the Docum Drug Store in Wichita, Kansas in 1958; these sit-ins became the model used across the nation in later years
- obtaining passage of the Civil Rights Act in 1964
- registering more than 80,000 voters in the Old South after passage of the Voting Rights Act in 1965
- initiating the first bill ever signed by a governor that allows voter registration in high schools in 1979, benefitting both African Americans and white high school seniors
- · leading a massive anti-apartheid rally in New York in 1985
- establishing television diversity agreements with the entertainment industry and organizing a march of more than 50,000 people to protest the flying of the Confederate battle flag in Columbia, South Carolina in 2000, the largest Civil Rights demonstration ever held in the South; and

WHEREAS, Throughout the history of the Civil Rights movement the NAACP has been a leader and has been instrumental to social progress and equality: Now, Therefore,

Be it resolved by the Senate of the State of Kansas: That we commemorate the 100th anniversary of the founding of the NAACP and the cause of Civil Rights for which it has advocated for 100 years; and

Be if further resolved. That the Secretary of the Senate be directed to provide one enrolled copy of this resolution to Senator David Haley and one to Senator Alethea Faust-Goudeau.

On emergency motion of Senator Haley SR 1821 was adopted unanimously.

REPORT ON ENROLLED BILLS

SR 1812, SR 1813, SR 1814, SR 1815, SR 1816 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 12, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Commerce recommends SB 119 be passed.

Also, SB 138 be amended on page 1, by striking all in lines 14 through 43;

By striking all on pages 2 through 11;

On page 12, by striking all in lines 1 through 18; in line 29, by striking "2007" and inserting "2008"; in line 33, by striking "2007" and inserting "2008"; in line 38, by striking "2007" and inserting "2008";

On page 13, in line 28, by striking "2007" and inserting "2008"; in line 32, by striking "2007" and inserting "2008";

On page 15, in line 31, by striking "2007" and inserting "2008";

On page 18, in line 5, by striking "12-1770a, 12-1774,";

And by renumbering the sections accordingly;

In the title, in line 10, by striking "12-1770a, 12-1774,"; and the bill be passed as amended. Committee on **Ethics and Elections** recommends **SB 103, SB 171** be passed.

Also, **SB 117** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 117," as follows:

"Substitute for SENATE BILL No. 117

By Committee on Ethics and Elections

"AN ACT concerning campaign finance; dealing with the crime of corrupt political advertising; amending K.S.A. 2008 Supp. 25-4156 and repealing the existing section; also repealing K.S.A. 2008 Supp. 25-4156a.";

and the substitute bill be passed.

SB 79 be amended on page 1, in line 20, by striking "10" and inserting "24";

On page 3, in line 19, by striking "10" and inserting "24"; in line 39, by striking "10" and inserting "24"; in line 42, by striking "May 24" and inserting "June 7";

On page 4, in line 3, by striking "11" and inserting "25"; in line 6, by striking "12" and inserting "26"; in line 16, by striking "10" and inserting "24"; and the bill be passed as amended.

SB 168 be amended on page 1, in line 37, by striking "(a) and (b)" and inserting "(b) and (c)"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 53** be amended on page 1, in line 18, by striking all after the period; in line 19, by striking all before "governing" and inserting "The"; in line 21, by striking "The board of county commis-"; in line 22, by striking all before "to", where it appears the second time, and inserting "No retailer's license shall be issued"; in line 43, by striking all after "(8)";

On page 2, by striking all in lines 1 through 6; in line 7, by striking "(9);

And by renumbering the remaining paragraphs accordingly;

Also on page 2, in line 12, by striking "(10)" and inserting "(9)"; in line 18, after "(c)" by inserting the following:

"After examination of an application for a retailer's license, the board of county commissioners or the governing body of a city may deny a license to a person, partnership or corporation if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, has been an officer, manager, director or a stockholder owning in the aggregate more than 25% of the stock, of a corporation which has:

(1) Had a retailer's license revoked under K.S.A. 41-2708, and amendments thereto; or (2) been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(d)";

On page 3, in line 24, by striking all after the period; by striking all in lines 25 through 27; and the bill be passed as amended. Committee on **Financial Institutions and Insurance** recommends **SB 89** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 89," as follows:

"Substitute for SENATE BILL No. 89

By Committee on Financial Institutions and Insurance

"AN ACT concerning public records; relating to certain records not required to be open; amending K.S.A. 2008 Supp. 45-221 and repealing the existing section.";

and the substitute bill be passed

SB 72 be amended on page 1, in line 29, by striking "volunteer of an organization or employee group" and inserting "person of a volunteer group recognized by the management of the association or employee group"; in line 34, following "entity" by inserting "within the field of membership as"; in line 38, following "family" by inserting "or household"; in line 39, preceding the period by inserting "and persons living in the same residence maintaining a single economic unit with persons within the credit union's field of membership"; in line 42, before the period by inserting "or household"; in line 43, by striking all following "(C)";

On page 2, by striking all in line 1; in line 2, by striking "(D)";

On page 4, in line 27, following "family" by inserting "or household"; in line 32, following "family" by inserting "or household"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 28** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 28," as follows:

"Substitute for SENATE BILL No. 28

By Committee on Judiciary

"AN ACT concerning crimes, criminal procedure and punishment; relating to unlawful possession of a controlled substance or controlled substance analog; amending K.S.A. 21-4603d and

repealing the existing section.";

and the substitute bill be passed.

Committee on Public Health and Welfare recommends SB 83, SB 249 be passed.

Committee on Transportation recommends SB 60, SB 122, SB 145 be passed.

Also, **SB 123** 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 **Ways and Means** recommends **SB 219** be amended on page 5, in line 16, by striking "July 1, 2009, and ending on March 31, 2010" and inserting "March 1, 2009, and ending on November 30, 2009";

On page 6, in line 43, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Wysong the following report was adopted:

Recommended SB 98, SB 118, SB 126; HB 2026 be passed.

 $SB\ 62$ be amended by adoption of the committee amendments, and the bill be passed as amended.

SB 68 be amended by motion of Senator Bruce on page 1, in line 35, after "and" by inserting "a sum equal to \$1";

On page 2, after line 11, by inserting the following:

"Sec. 2. K.S.A. 2008 Supp. 28-172a is hereby amended to read as follows: 28-172a. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows:

(1) On and after July 1, 2008 through June 30, 2010:	
Murder or manslaughter	\$181.50 \$182.50
Other felony	172.00 173.00
Misdemeanor	
Forfeited recognizance	73.50 74.50
Appeals from other courts	73.50 74.50
(2) On and after July 1, 2010:	
Murder or manslaughter	
Murder or manslaughter Other felony	170.00 171.00
Murder or manslaughter Other felony Misdemeanor	170.00 171.00 135.00 136.00
Murder or manslaughter Other felony	170.00 171.00 135.00 136.00 71.50 72.50

(b) (1) Except as provided in paragraph (2), in actions involving the violation of any of the laws of this state regulating traffic on highways (including those listed in subsection (c) of K.S.A. 8-2118, and amendments thereto), a cigarette or tobacco infraction, any act declared a crime pursuant to the statutes contained in chapter 32 of Kansas Statutes Annotated and amendments thereto or any act declared a crime pursuant to the statutes contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, on and after July 1, 2008 through June 30, 2010, a docket fee of $\frac{375}{775}$ \$76 shall be charged, and on and after July 1, 2010, a docket fee of $\frac{573}{775}$ shall be charged. When an action is disposed of under subsections (a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. 79-3393, and amendments thereto, whether by mail or in person, on and after July 1, 2008 through June 30, 2010, the docket fee to be paid as court costs shall be $\frac{573}{776}$, and on and after July 1, 2010, the docket fee to be paid as court costs shall be $\frac{573}{776}$ states and the state states be action.

(2) In actions involving the violation of a moving traffic violation under K.S.A. 8-2118, and amendments thereto, as defined by rules and regulations adopted under K.S.A. 8-249, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, on and after July 1, 2008 through June 30, 2010, a docket fee of \$75 \$76 shall be charged, and on and after July 1, 2010, a docket fee of \$75 \$76 shall be charged, and on and after July 1, 2010, a docket fee of \$75 \$76 shall be charged of under subsection (a) and (b) of K.S.A. 8-2118, and amendments thereto, whether by mail or in person, on and after July 1, 2008 through June 30, 2010, the docket fee to be paid as court costs shall be \$75 \$76, and on and after July 1, 2010, the docket fee to be paid as court costs shall be \$73 \$74.

(c) If a conviction is on more than one count, the docket fee shall be the highest one applicable to any one of the counts. The prosecuting witness or defendant, if assessed the costs, shall pay only one fee. Multiple defendants shall each pay one fee.

(d) Statutory charges for law library funds, the law enforcement training center fund, the prosecuting attorneys' training fund, the juvenile detention facilities fund, the judicial branch education fund, the emergency medical services operating fund and the judiciary technology fund shall be paid from the docket fee; the family violence and child abuse and neglect assistance and prevention fund fee shall be paid from criminal proceedings docket fees. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for Kansas bureau of investigation forensic or laboratory analyses, fees for detention facility processing pursuant to K.S.A. 12-16,119, and amendments thereto, fees for the sexual assault evidence collection kit, fees for conducting an examination of a sexual assault victim, fees for service of process outside the state, witness fees, fees for transcripts and depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

(f) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.";

And by renumbering the remaining sections accordingly;

Also on page 2, in line 12, by striking "is" and inserting "and K.S.A. 2008 Supp. 28-172a are";

In the title, in line 10, after "20-362" by inserting "and K.S.A. 2008 Supp. 28-172a"; in line 11, by striking "section" and inserting "sections", and **SB 68** be passed as amended.

SB 55 be amended by adoption of the committee amendments, and be further amended by motion of Senator Hensley as amended by Senate Committee, on page 4, by striking all in lines 18 through 21;

On page 5, in line 32, after the semicolon by inserting "or"; in line 35, by striking "; or"; by striking all in lines 36 and 37; in line 38, by striking "thereto";

On page 9, in line 14, by striking the colon; in line 15, by striking "(1) A" and inserting "a"; in line 22, by striking "; or"; by striking all in lines 23 and 24; in line 25, by striking "candidate"; in line 43, by striking "; or";

On page 10, by striking all in lines 1 through 16; in line 17, by striking all before the period; by striking all in lines 18 through 38;

And by renumbering the sections accordingly;

Also on page 10, in line 39, by striking "25-4142 and";

In the title, in line 12, by striking "25-4142, and SB 55 be passed as further amended.

SB 56 be amended by adoption of the committee amendments, and be further amended by motion of Senator V. Schmidt as amended by Senate Committee, on page 3, in line 3, after "ignation" by inserting "showing the date and signature"; in line 4, after "may" by inserting "be designated to"; in line 5, after "statement" by inserting "and date such statement"; in line 16, after the period by inserting "No person may be found to have violated subsection (g) unless there is evidence the violation was knowingly and willfully done.", and **SB 56** be passed as further amended.

SB 71 be amended by adoption of the committee amendments, and be further amended by motion of Senator Huelskamp, as amended by Senate Committee, on page 2, after line 22, by inserting the following:

"New Sec. 2. (a) No officer or employee of any municipality or member of the governing body thereof, shall use or authorize the use of public funds or public vehicles, machinery, equipment or supplies of any such municipality, or the time of any officer or employee of any such municipality or member of the governing body thereof, for which the officer or employee or member of the governing body thereof is compensated by such municipality to:

(1) Expressly advocate the nomination, election or defeat of a clearly identified candidate to state office or local office. The provisions of this section prohibiting the use of time of any officer or employee for such purposes shall not apply to an incumbent officer campaigning for nomination or reelection to a succeeding term to such office or to members of the personal staff of any elected officer; or

(2) promote or engage in promoting the success or defeat of the adoption or defeat of any question submitted at any city, unified school district, community college, township, county or state election.

(b) For the purposes of this subsection, the terms "governing body" and "municipality" shall have the meaning ascribed to it in K.S.A. 12-105a and amendments thereto.

(c) Any person violating the provisions of this section shall be guilty of a class C misdemeanor.";

And by renumbering the remaining sections accordingly, and ${\bf SB}\ {\bf 71}$ be passed as further amended.

SB 95 be amended by adoption of the committee amendments, be further amended by motion of Senator Bruce, as amended by Senate Committee, on page 1, in line 31, following the stricken material by inserting "Correctional institution" does not include any parking lot open to the public."; in line 37, following the stricken material by inserting "Care and treatment facility" does not include any parking lot open to the public.", and **SB 95** be passed as further amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and **SB 55**, **SB 56**, **SB 62**, **SB 68**, **SB 71**, **SB 95**, **SB 98**, **SB 118**, **SB 126**; **HB 2026** were advanced to Final Action and roll call.

SB 55, An act concerning elections; amending K.S.A. 25-1218 and K.S.A. 2008 Supp. 25-4143, 25-4148b, 25-4148c, 25-4148d and 25-4157a and repealing the existing sections.

On roll call, the vote was: Yeas 37, Nays 1, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Navs: Marshall.

Absent or Not Voting: Colyer, Donovan.

The bill passed, as amended.

SB 56, An act concerning elections; pertaining to advance voting ballots; amending K.S.A. 2008 Supp. 25-1124 and 25-1128 and repealing the existing sections.

On roll call, the vote was: Yeas 29, Nays 9, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, Steineger. Absent or Not Voting: Colyer, Donovan.

The bill passed, as amended.

SB 62, An act concerning the department of health and environment; relating to tuberculosis evaluation requirements and prevention and control plan for postsecondary educational institutions; rules and regulations; amending K.S.A. 2008 Supp. 65-129e and repealing the existing section.

On roll call, the vote was: Yeas 34, Nays 4, Present and Passing 0, Absent or Not Voting 2.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Huelskamp, Ostmeyer, Pyle.

Absent or Not Voting: Colyer, Donovan.

The bill passed, as amended.

SB 68, An act concerning docket fees; relating to the prosecuting attorneys' training fund; amending K.S.A. 20-362 and K.S.A. 2008 Supp. 28-172a and repealing the existing sections.

On roll call, the vote was: Yeas 24, Nays 14, Present and Passing 0, Absent or Not Voting 2.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Faust-Goudeau, Hensley, Lee, Lynn, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Francisco, Haley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Marshall, Pilcher-Cook, Pyle, Steineger, Taddiken, Wagle.

Absent or Not Voting: Colver, Donovan.

The bill passed, as amended.

SB 71, An act concerning certain elections; amending K.S.A. 25-901 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Colyer, Donovan.

The bill passed, as amended.

SB 95, An act concerning crimes and punishment; relating to traffic in contraband in a correctional institution or care and treatment facility; amending K.S.A. 21-3826 and repealing the existing section.

On roll call, the vote was: Yeas 36, Nays 2, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Haley, Schodorf.

Absent or Not Voting: Colyer, Donovan.

The bill passed, as amended.

SB 98, An act concerning income taxation; relating to refund claims and adjustments of income; period of limitations; amending K.S.A. 2008 Supp. 79-3230 and repealing the existing section.

On roll call, the vote was: Yeas 36, Nays 2, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Nays: Pilcher-Cook, Wagle.

Absent or Not Voting: Colyer, Donovan.

The bill passed.

SB 118, An act concerning elections; relating to campaign finance; amending K.S.A. 2008 Supp. 25-4148 and repealing the existing section.

On roll call, the vote was: Yeas 34, Nays 4, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lynn, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Haley, Lee, Marshall, Taddiken.

Absent or Not Voting: Colyer, Donovan.

The bill passed.

SB 126, An act concerning insurance; enacting the controlled insurance programs act. On roll call, the vote was: Yeas 34, Nays 4, Present and Passing 0, Absent or Not Voting

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Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Nays: Huelskamp, Pilcher-Cook, Pyle, Wagle.

Absent or Not Voting: Colver, Donovan.

The bill passed.

HB 2026, An act concerning sales taxation; relating to countywide retailers' sales tax in Lyon and Rawlins counties; amending K.S.A. 2008 Supp. 12-187 and 12-189 and repealing the existing sections.

On roll call, the vote was: Yeas 35, Nays 3, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Ostmeyer, Pilcher-Cook. Absent or Not Voting: Colyer, Donovan.

The bill passed.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 23**, 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 as House Substitute for Substitute for Senate Bill No. 23, as printed with House Committee of the Whole amendments, as follows:

On page 7, by striking all in lines 30 through 41;

On page 17, in line 14, by striking "\$19,955" and inserting "\$28,159"; in line 19, by striking "\$141,745" and inserting "\$199,546"; in line 24, by striking "\$1,757,495" and inserting "\$2,180,858"; in line 42, by striking "\$50,000" and inserting "\$81,250";

On page 18, in line 19, by striking "\$1,830,921" and inserting "\$798,172";

On page 19, following line 41, by inserting the following material to read as follows:

"(1) During the fiscal year ending June 30, 2009, the executive director of the Kansas commission on veterans affairs, with the approval of the director of the budget, may transfer any part of any item of appropriation for the fiscal year ending June 30, 2009, from the state general fund for the Kansas commission on veterans affairs or any institution or facility under the general supervision and management of the Kansas commission on veterans affairs to another item of appropriation for fiscal year 2009 from the state general fund for the Kansas commission on veterans affairs to another item of appropriation for fiscal year 2009 from the state general fund for the Kansas commission on veterans affairs. The general supervision and management of the Kansas commission on veterans affairs. The executive director of the Kansas commission on veterans affairs shall certify each such transfer to the director of accounts and reports and shall transmit a copy of each such certification to the director of legislative research.

(m) (1) During the fiscal year ending June 30, 2009, notwithstanding the provisions of K.S.A. 73-1231, 73-1906, 73-1953 or 75-3728g, and amendments thereto, or K.S.A. 2008 Supp. 73-1233, and amendments thereto, or any other statute, the executive director of the Kansas commission on veterans affairs, with the approval of the director of the budget, may transfer moneys that are credited to a special revenue fund of the Kansas commission on veterans affairs. The executive director of the Kansas commission on veterans affairs. The executive director of the Kansas commission on veterans affairs. The executive director of the Kansas commission on veterans affairs shall certify each such transfer to the director of legislative research.

(2) As used in this subsection (m), "special revenue fund" means the soldiers' home fee fund, veterans' home fee fund, soldiers' home outpatient clinic fund, soldiers' home benefit fund, soldiers' home work therapy fund, veterans' home canteen fund, veterans' home benefit fund, Persian Gulf War veterans health initiative fund, state veterans cemeteries fee fund, state veterans cemeteries donations and contributions fund, and Kansas veterans memorials fund.

(n) (1) During the fiscal year ending June 30, 2009, the executive director of the Kansas commission on veterans affairs, with the approval of the director of the budget and subject to the applicable restrictions and limitations or other provisions of federal grant agreements, may transfer moneys received under a federal grant that are credited to a federal fund of the Kansas commission on veterans affairs to another federal fund of the Kansas commission on veterans affairs. The executive director of the Kansas commission on veterans affairs shall certify each such transfer to the director of accounts and reports and shall transmit a copy of each such certification to the director of legislative research.

(2) As used in this subsection (n), "federal fund" means the VA burial reimbursement fund—federal, veterans home federal fund, soldiers home federal fund, commission on veterans affairs federal fund, and outpatient clinic patient federal reimbursement fund—federal.";

On page 21, by striking all in lines 15 through 43;

On page 22, by striking all in lines 1 through 6; in line 31, by striking "\$11,755" and inserting "\$195,924"; by striking all in lines 33 through 37; in line 42, by striking "\$13,741" and inserting "\$229,011"; by striking all in line 43;

On page 23, by striking all in lines 1 through 4;

And by relettering the subsections accordingly;

On page 26, in line 35, by striking "\$242,324" and inserting "\$222,124";

On page 27, by striking all in lines 13 through 22; in line 23, by striking "(n)" and inserting "(l)";

On page 28, in line 1, by striking "\$12,538,435" and inserting "\$6,538,435"; in line 6, by striking "\$198,736" and inserting "\$72,004";

On page 29, in line 30, by striking "\$3,200" and inserting "\$5,200"; by striking all in lines 32 through 43;

On page 30, by striking all in lines 1 through 33;

On page 31, in line 24, by striking "\$16,804" and inserting "\$8,305";

On page 32, in line 4, by striking "\$104,040" and inserting "\$100,000"; by striking all in lines 5 through 19;

On page 35, in line 14, by striking "\$12,000" and inserting "\$19,500";

On page 36, in line 16, by striking "\$480" and inserting "\$8,000"; by striking all in lines 40 through 43;

On page 37, by striking all in lines 1 through 11, and inserting the following material to read as follows:

"(e) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2009, the following:

On page 39, in line 11, by striking "\$102,600" and inserting "\$166,725"; in line 16, by striking "\$9,931" and inserting "\$16,137";

On page 42, by striking all in lines 2 through 11;

On page 46, in line 26, by striking "\$1,731" and inserting "\$28,849"; in line 31, by striking "\$720" and inserting "\$12,000"; in line 36, by striking "\$7,000" and inserting "\$49,463";

On page 47, in line 8, by striking "\$2,744" and inserting "\$4,459"; in line 25, by striking "\$46,758" and inserting "\$322,092"; in line 30, by striking "\$47,013" and inserting "\$783,542"; in line 35, by striking "\$14,077" and inserting "\$234,623"; by striking all in lines 36 through 40;

On page 48, in line 2, by striking "\$5,448" and inserting "\$90,802"; in line 7, by striking "\$3,639" and inserting "\$60,650"; by striking all in lines 8 through 12;

And by relettering subsections accordingly;

Also on page 48, in line 17, by striking "\$73,685" and inserting "\$1,228,078"; in line 22, by striking "\$18,446" and inserting "\$307,427"; in line 34, by striking "\$10,802" and inserting "\$180,035"; by striking all in lines 35 through 43;

On page 49, by striking all in line 1; in line 6, by striking "\$9,494" and inserting "\$158,230"; in line 11, by striking "\$1,458" and inserting "\$24,300"; by striking all in lines 12 through 21; in line 25, by striking "\$1,200" and inserting "\$20,000"; by striking all in lines 27 through 31;

And by relettering subsections accordingly;

On page 50, in line 4, by striking "\$480" and inserting "\$8,000"; in line 39, by striking "\$2,880,000" and inserting "\$2,805,000";

On page 52, in line 36, by striking "\$878,241" and inserting "\$802,141"; by striking all in lines 37 through 43:

And by relettering subsections accordingly;

On page 53, in line 14, by striking "\$40,910,154" both times it appears and inserting "\$39,000,000"; in line 19, by striking "\$40,910,154" and inserting "\$39,000,000"; On page 55, in line 3, by striking "or before"; in line 4, by striking "February 15, 2009"

and inserting "March 2, 2009, and on June 1, 2009";

On page 56, in line 29, following "that" by inserting "(A)"; in line 33, preceding the period by inserting ", and (B) an amount equal to 50% of the maximum amount determined pursuant to subsection (g) shall be transferred from the state general fund to the business machinery and equipment tax reduction assistance fund on March 2, 2009, and an amount equal to 50% of the maximum amount determined pursuant to subsection (g) shall be transferred from the state general fund to the business machinery and equipment tax reduction assistance fund on June 1, 2009";

On page 57, in line 26, by striking "96.0%" and inserting "93.5%"; in line 28, by striking "96.0%" and inserting "93.5%"; in line 30, by striking "96.0%" and inserting "93.5%"; in line 32, by striking "96.0%" and inserting "93.5%"; in line 33, by striking "96.0%" and inserting "93.5%";

On page 58, in line 38, by striking "or before February 15, 2009" and inserting "March 2, 2009, and on June 1, 2009";

On page 60, in line 14, following "that" by inserting "(A)"; in line 18, preceding the period by inserting ", and (B) an amount equal to 50% of the maximum amount determined pursuant to subsection (f) shall be transferred from the state general fund to the telecommunications and railroad machinery and equipment tax reduction assistance fund on March 2, 2009, and an amount equal to 50% of the maximum amount determined pursuant to subsection (f) shall be transferred from the state general fund to the telecommunications and railroad machinery and equipment tax reduction assistance fund on June 1, 2009";

On page 61, in line 13, by striking "96.0%" and inserting "93.5%"; in line 14, by striking "96.0%" and inserting "93.5%"; in line 16, preceding "aggregate" by inserting "amount equal to 93.5% of the"; in line 18, by striking "96.0%" and inserting "93.5%"; in line 19, by striking "96.0%" and inserting "93.5%"; in line 41, by striking "\$4,830,558.72" and inserting "\$3,330,543.50";

On page 62, in line 1, preceding the period by inserting "; and (4) notwithstanding the provisions of K.S.A. 79-3425c and 75-3425i, and amendments thereto, or any other statute, the aggregate amount of \$6,661,087 of the moneys credited to the special city and county highway fund shall be paid on or before April 14, 2009, by the state treasurer in accordance with the following to the following counties in the amounts specified respectively therefor with the requirement that the moneys received by each such county shall be deposited and administered in accordance with K.S.A. 79-3425c, and amendments thereto, including any redistributions provided for by that statute: Barton county, \$174,544.98; Butler county, \$890,898.90; Chautauqua county, \$7,293.76; Clay county, \$15,533.75; Comanche county, \$15,525.56; Cowley county, \$151,493.36; Douglas county, \$1,152,561.96; Finney county, \$38,376.16; Geary county, \$41,101.83; Grant county, \$11,827.23; Lane county, \$6,986.21; Leavenworth county, \$655,874.14; Ness county, \$13,000.51; Rice county, \$9,780.91; Russell county, \$18,610.55; Shawnee county, \$3,299,659.69; Sherman county, \$29,689.72; Stevens county, \$7,532.41; Trego county, \$4,257.37; and Wyandotte county, \$116,537.47, which shall be for the purpose of providing such counties, cities and other local governmental entities the amounts that were not paid as directed by statute during state fiscal years 2006, 2007 and 2008"; in line 29, by striking "\$859,000" and inserting "\$849,000";

On page 63, in line 6, by striking "\$48,000,000" and inserting "\$48,059,846"; in line 11, by striking "\$48,000,000" and inserting "\$48,059,846"; in line 28, by striking "\$5,760,000" and inserting "\$2,000,000"; in line 30, by striking "\$5,760,000" and inserting "\$2,000,000"; On page 64, in line 3, by striking "1.0%" and inserting "1.25%";

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

KEVIN YODER JASON P. WATKINS BILL FEUERBORN Conferees on part of House

JAY SCOTT EMLER JOHN VRATIL LAURA KELLY Conferees on part of Senate

Senator Emler moved the Senate adopt the Conference Committee Report on H Sub for Sub SB 23.

On roll call, the vote was: Yeas 27, Nays 11, Present and Passing 0, Absent or Not Voting 2.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, Ostmeyer, Steineger.

Absent or Not Voting: Colyer, Donovan.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: In an economic downturn, all budgets are difficult, no matter whether we are talking for a family, a business, or the state. The 09 budget before us is no different. There is, in this recession budget, something for everyone to hate.

I am glad to see that monies remain for WCGME, for Physical Disabilities, and further there is inclusion of a rolling waiting list. There are monies for DOC to allow WCF to stay as a viable entity.

I'm glad to see that schools don't have a \$127 cut. Unfortunately the Senate budget of \$33 cut went to a \$66 cut in BSAPP. That will be exceptionally difficult in the last 3-4 months of this fiscal year when most of the contracts are already mostly fulfilled. Therefore, most of the labor cuts will be for cooks, janitors and paraprofessionals.

Further, we have no knowledge of how much, when or even if a Federal Stimulus bill will be available. We cannot and should not rely on any proposed Stimulus bill.

I have no doubt that the 2010 budget will have to be cut 10% or even 15%. But for 09, this is too much.

Having said this, I vote Nay.—STEVE ABRAMS

Senator Ostmeyer requests the record to show he concurs with the "Explanation of Vote" offered by Senator Abrams on **House Sub for Senate Sub 23**.

MR. PRESIDENT: I vote no on the conference committee report on House Sub for Senate Sub 23.

This lopsided compromise will strike a devastating blow to Kansas school districts, forcing draconian cuts and unfair choices during the waning months of the current school year.

Ironically, while slashing funds for our K-12 school children, the report allowed an entity of the Kansas Board of Regents to circumvent the budget process, ask for and receive nearly \$3 million in new funding for graduate medical education. While educating Kansas doctors is important, it is unjust to increase funding for one program while asking other equallyimportant programs to do more with less.

While the bipartisan budget plan approved by the Senate was based on tough choices, it strived to keep the promise we made to our children for school funding. Now, in just the

third year, this conference committee report will effectively reverse our obligation to the children of Kansas in an incredibly irresponsible manner.—LAURA KELLY

Senators Hensley and Lee request the record to show they concur with the "Explanation of Vote" offered by Senator Kelly on **House Sub for Senate Sub 23**.

MR. PRESIDENT: In spite of the disparity of the issue of providing \$2.9 million to the WCGME program and not reducing the Base Aid reduction below the \$66 per student level I will vote AYE on both **Bills 161** & **23.** WCGME is a very worthwhile program, but not at the expense of the Base Aid per student funding.—BOB MARSHALL

MR. PRESIDENT: This is not the bill that I want to support. The cuts to education are more than what the schools in my district can afford and still maintain a quality education. Because of their size they are already functioning as highly efficient schools. These cuts will no longer allow my schools to be efficient and effective but will harm the very programs that are so badly needed by these students. However, my fear is that if this bill doesn't pass the consequences of future negotiations will hurt my schools more. The longer we take the less time schools will have to face the cuts they will eventually have to make. So, Mr. President, it is time to do what is right and not what I want. Therefore, I vote yes.—RUTH TEICHMAN

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, February 13, 2009.

Journal of the Senate

TWENTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Friday, February 13, 2009—8:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-five senators present. Senators Barnett, Colyer, Donovan, Lynn and Masterson were excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Seldom does Friday the 13th fall between Lincoln's birthday anniversary and Valentine's day. We have three days I call the trilogy of three L's: Lincoln, luck and love. I prayed about Lincoln yesterday. Today, O God, I want to contrast the luck of Friday 13th to the love of Valentine's day.

Luck involves superstition. Love should involve the Supernatural. Superstition deals with black cats. The Supernatural deals with golden moments. Black cats deal with fear. Golden moments deal with cheer. Fear produces nightmares. Cheer produces sweet dreams. Nightmares produce more fear. Sweet dreams produce peace. People who live by luck usually live in fear. People in love with You, O God, live in peace.

And for that we are most thankful.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 275, An act relating to implements of husbandry; amending K.S.A. 84-2a-104 and K.S.A. 2008 Supp. 8-197 and 84-9-311 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 264, SB 266.

Ethics and Elections: SB 267, SB 268.

Federal and State Affairs: **SB 273**; **HB 2068**, **HB 2085**. Judiciary: **SB 269**, **SB 270**, **SB 272**; **HB 2111**.

Local Government: **SB 270**, **SB 271**.

Transportation: **SB 274; HB 2045**.

Utilities: SB 265.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Ostmeyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1820-

A RESOLUTION congratulating and commending the Norton Community High School girls' track and field team.

WHEREAS, The Norton Community High School Lady Jays track and field team won the 2008 Class 3A State Championship with 45 points; and

WHEREAS, The 2008 Class 3A State Championship was the first state championship for the Lady Jays since 1982 and only the second in their history; and

WHEREAS, The Lady Jays team members are Courtney LeClair, Laura Lee Baird, Hayli Bozarth, Karajo Jones, Taylor Rossi, Katharine Roy, Raven Brown, Alyssa Thomson, Hannah Waggoner and Dustyna Sprigg; and

WHEREAS, Seven different team members won medals en route to the state championship, truly making it a team effort; and

WHEREAS, The Lady Jays have been led by the experience and wisdom of head coach Jason Jones and assistant coaches Dale Engelbert, Doug Reusink, Todd Fulton and Lucas Melvin; and

WHEREAS, Track and field is one of the more grueling high school sports, requiring these outstanding athletes to dedicate many hours to training: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Norton Community High School Lady Jays track and field team for being the 2008 Class 3A State Champions; and

Be it further resolved: That the Secretary of the Senate be instructed to provide an enrolled copy of this resolution to Senator Ostmeyer.

On emergency motion of Senator Ostmeyer SR 1820 was adopted unanimously.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Monday, February 16, 2009.

Journal of the Senate

TWENTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Monday, February 16, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris.

The roll was called with thirty-nine senators present.

Senator Wagle was excused.

President Morris introduced as guest chaplain, Rev. Shirley D. Heermance, Senior Pastor, Christ Our Redeemer African Methodist Episcopal Church, Kansas City, Missouri, who delivered the invocation:

Eternal Father of our souls Creator of all things Giver of every good and perfect gift To You Who one day we will all have to give an account

On this President's Day, I come asking that you will bless the Members of this body as they think together and work together in this Chamber, in their committee rooms, and in their offices. Help them to continue under the strains and the tensions of problems and decisions, of meetings and conferences, and the endless demands made on them.

Bless these men and women chosen by the people of this State, you know them, their needs, their motives, their hopes, and their fears. Lord, put your arms around them to give them strength, and speak to them to give them wisdom to meet the challenges yet before them. May they hear your voice and seek your guidance now and for the rest of the day.

May they remember that you are concerned about what is said and done in this place of deliberation. And, may this holy interlude flow through each of them with a sense of joy and power, to remain with them until night shall bring your quiet utterance in their ears, "Well done, good and faithful servant."

Also, please bless and empower our new President and all those, along with these, who have been called to serve our great Nation.

In the Precious name of Jesus and for His sake we pray. Amen.

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 276, An act relating to motor vehicles; providing for United States army, navy, air force, marine corps and coast guard or merchant marine license plates, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated: Financial Institutions & Insurance: **SB 275**.

CHANGE OF REFERENCE

The President withdrew **SB 231** from the Committee on **Ways and Means**, and referred the bill to the Committee on **Agriculture**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2091**, **HB 2092**, **HB 2096**, **HB 2097**, **HB 2185**. Announcing adoption of **SCR 1604**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2091, HB 2092, HB 2096, HB 2097, HB 2185 were thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator McGinn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1822-

A RESOLUTION in memory of Norma Daniels.

WHEREAS, Norma Daniels was born July 6, 1930, in Yates Center to Leo and Ruth Staab, and raised in Kansas City, MO. She graduated from Bishop Hogan High School in 1948 and earned her Registered Nurse Diploma from St. Mary's School of Nursing in Kansas City; and

WHEREAS, While working as an obstetrics RN at St. Mary's Hospital, she met Dr. Robert M. Daniels, whom she married Nov. 27, 1954 before moving to Valley Center where they raised their seven children; and

WHEREAS, Norma Daniels devoted immeasurable time, energy and enthusiasm to serving her family, her community and her church. In 1974, she was elected to the Valley Center City Council, where she served as a councilwoman for six years, leading Valley Center's 1976 Bicentennial Celebration; and

WHEREAS, In 1980, Norma Daniels was elected to the Kansas Senate, 31st District, as the first female Senator from Sedgwick County. During her three consecutive terms serving the people of Kansas as a senator, she served on numerous boards and commissions, including the Presidential appointment to the Kansas Rural Development Council; and

WHEREAS, Norma Daniels generously gave her time and talents to serving others including her 54-year membership of St. Jude Catholic Church, where she volunteered as a CCD teacher; her participation as a charter member of the Valley Center Swim Club and the Valley Center Historical Society and through her avid support of Valley Center Schools, particulary fine arts programs; and

WHEREAS, Norma Daniels touched many lives with her positive energy, her gentle spirit and her immeasurable faith in God. She will be dearly missed by her family, friends and all who knew her. She is survived by her husband Dr. Robert M. Daniels; her sister Angela Kohl; her son Robert M. II and his wife Deborah Daniels; six daughters, Mary Porter, Kathryn Daniels, Jeanne Daniels, Dr. Patricia Petrakis and Peggy Marisa Daniels and Susanne Daniels; 10 grandchildren and five great-grandchildren: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor Norma Daniels for her lifetime of service to her community and the state of Kansas and extend our deepest sympathy to her family and friends.

On emergency motion of Senator McGinn SR 1822 was adopted unanimously.

Guests introduced were Senator Daniels' husband, Dr. Robert M. Daniels, and other family members: Kathy Daniels, Sister Susanne, Jeanne Daniels, Dr. Patricia Petrakis, Jo Jo Petrakis, Chris Porter, Bob Daniels, Debbie Daniels and Nikki Daniels.

Senator V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1823-

A RESOLUTION recognizing and thanking Best Buy Inc. and the employees of its Manhattan location, store #1101, for their volunteer efforts to rebuild Chapman, Kansas, schools damaged by a tornado on June 11, 2008.

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WHEREAS, Chapman, Kansas, about 30 miles southwest of Manhattan, was hit by a tornado June 11, 2008, causing minor to extensive damage throughout the town and severe damage to all three of the school district buildings; and

WHEREAS, Best Buy Inc., in acknowledging an immediate need to get these schools back into condition to provide education to children, selflessly donated the time and labor of numerous store volunteers from its Manhattan, Kansas store to help clean up and get the schools back up and running; and

WHEREAS, Best Buy donated over 446 total hours to the Chapman School District through the volunteer work of its dedicated employees in Manhattan and other locations; and

WHEREAS, Kyle Mills, community ambassador at the Manhattan Best Buy, organized the volunteer effort pulling together volunteers from eleven Best Buy stores throughout eastern Kansas; and

WHEREAS, The selfless dedication and hard work contributed by Best Buy and its employees was instrumental in quickly cleaning up the Chapman School District so that it could resume providing education to its students: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize and thank Best Buy for volunteering so much time to help in the clean up efforts associated with the tornado that devastated the Chapman School District; and

Be it further resolved. That seven copies of this resolution be furnished to Best Buy and an additional copy to the members of the Capitol Press Corps.

On emergency motion of Senator V. Schmidt SR 1823 was adopted unanimously.

Guests recognized were Cheryl Lupton, Tom Leopold, Tony Frieze, Bruce Huford, Alison Scott Pugh, Kyle Mills, Ron James and Joshua Cavner.

Senator D. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1824-

A RESOLUTION recognizing and congratulating the renewal of Wolf Creek Nuclear Operating Corporation's license.

WHEREAS, On November 20, 2008, the Nuclear Regulatory Commission approved Wolf Creek's application for a renewed license for the Wolf Creek Generating Station; and

WHEREAS, Wolf Creek Generating Station has been providing Kansas with energy since June 4, 1985; and

WHEREAS, Wolf Creek's original 40-year license was scheduled to expire in 2025 and the renewed operating license allows the station to operate an additional 20 years until 2045; and

WHEREAS, Wolf Creek is the 50th nuclear power unit among the nation's 104 licensed plants to receive a license renewal; and

WHEREAS, Wolf Creek has been, and continues to be, a reliable, safe source of electricity for all of its customers; and

WHEREAS, According to a 2006 study conducted by the Nuclear Energy Institute, Wolf Creek has had a positive impact on the economy for both Coffey County and the state of Kansas, contributing \$165 million annually to the local and state economy in the form of payroll, purchases and taxes; and

WHEREAS, This renewed operating license ensures that Wolf Creek will continue to be an important part of Kansas' energy portfolio: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we do hereby recognize and congratulate the Wolf Creek Nuclear Operating Corporation for receiving a renewal of its operating license, enabling it to continue to serve the energy needs of Kansas for years to come.

Be it further resolved: That the Secretary of the Senate be directed to provide five enrolled copies of this resolution to Senator Derek Schmidt.

On emergency motion of Senator D. Schmidt SR 1824 was adopted unanimously.

Guests introduced were Rick Muench, President and CEO of Wolf Creek Nuclear Operating Corporation; Warren Wood, General Counsel; Bill Moore, President and CEO of Westar and Stephen Parr, Executive Vice President and CEO of Kansas Electric Power Cooperative.

REPORT ON ENGROSSED BILLS

H Sub for Sub SB 23; SB 95; SCR 1601 reported correctly engrossed February 13, 2009.

SB 55, SB 56, SB 62, SB 68, SB 71 reported correctly engrossed February 16, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Judiciary recommends SB 159 be passed.

Also, **SB 148** be amended on page 1, in line 18, by striking "shall" and inserting "may"; in line 19, by striking "shall" and inserting "may"; and the bill be passed as amended.

SB 158 be amended on page 1, in line 43, after "submit" by inserting "to the division of vehicles";

On page 2, in line 3, by striking "pursuant to K.S.A. 8-292, and amendments"; in line 4, by striking "thereto," and inserting "by the division of vehicles"; in line 8, after "suspended" by inserting "by the division of vehicles"; in line 12, after the period by inserting "When restricted driving privileges are approved pursuant to this section, the person's driving privileges shall be restricted to driving only under the following circumstances: (1) In going to or returning from the person's place of employment or schooling; (2) in the course of the person's employment; (3) during a medical emergency; (4) in going to and returning from probation or parole meetings, drug or alcohol counseling or any place the person is required to go by a court."; in line 19, before the period by inserting "and regardless of any application for restricted driving privileges"; in line 20, after the comma by inserting "restricted license fee,"; and the bill be passed as amended.

Committee on Natural Resources recommends SB 183 be passed.

Also, SB 64 be amended on page 2, in line 29, after "same" by inserting "date of";

On page 3, after line 16, by inserting the following:

"Sec. 4. K.S.A. 82a-709 is hereby amended to read as follows: 82a-709. No person may acquire an *a new* appropriation right to the use of waters of the state for other than domestic purposes without making an application to the chief engineer for a permit to make such appropriation. However, any person using water for domestic purposes subsequent to June 28, 1945, and any person intending to use water hereafter for domestic purposes may make application to the chief engineer for a permit the same as any other person. The application shall set forth (a) the name and post-office address of the applicant;

(b) the source from which said appropriation shall be made;

(c) the maximum rate at which water is to be diverted or used and the total annual quantity of water sought;

(d) the location of the works or proposed works for the diversion and use of the water;

(e) the estimated time for the completion of any proposed works;

(f) the time of the first actual application of the water to the beneficial use involved, if there was such, and the estimated time for the first actual application of the water for the beneficial use proposed;

(g) evidence of legal access to or control of the point of diversion and place of use from the landowner, or the landowner's authorized representative;

(g) (h) if for irrigation use, a description of the land to be irrigated by designating the number of irrigable acres in each forty (40) acre tract or fractional portion thereof;

 $\frac{(h)}{(i)}$ (*i*) if for municipal water supply, it shall give the present population to be served and estimated future requirements of the city;

(i) (j) any additional factors which may be required by the chief engineer.

Such application shall be filed and approved before the commencement of any work in connection with the construction, enlargement or extension of any works for the diversion, storage, and use of water.";

And by renumbering the remaining sections accordingly;

Also on page 3, in line 17, by striking "and 82a-707" and inserting ", 82a-707 and 82a-709";

In the title, in line 11, by striking "and 82a-707" and inserting ", 82a-707 and 82a-709"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 173** be amended on page 3, in line 1, following "health" by inserting "care"; preceding line 11, by inserting the following:

"(3) The provisions of this subsection (g) shall apply to all retired public officers and employees who took retirement on or after January 1, 2006.";

Also on page 3, in line 13, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Also, **SB 200** be amended on page 2, in line 33, following the period by inserting "The board of healing arts shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the healing arts fee fund.";

On page 7, in line 4, following the period by inserting "The board of healing arts shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the healing arts fee fund.";

On page 9, in line 42, following the period by inserting "The board of healing arts shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the healing arts fee fund.";

On page 14, in line 33, following the period by inserting "The board of healing arts shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the healing arts fee fund.";

On page 17, in line 36, following the period by inserting "The board of healing arts shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the healing arts fee fund.";

On page 20, in line 39, following the period by inserting "The board of healing arts shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the healing arts fee fund.";

On page 23, in line 4, following the period by inserting "The board of healing arts shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the healing arts fee fund.";

On page 26, in line 39, following the period by inserting "The board of healing arts shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the healing arts fee fund."; and the bill be passed as amended.

Committee on Transportation recommends SB 46 be passed.

Committee on **Utilities** recommends **SB 48** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 48," as follows:

"Substitute for SENATE BILL No. 48

By Committee on Utilities

"AN ACT concerning telecommunications; relating to enhanced wireless 911 service; concerning certain fees and disposition thereof; relating to audits of certain systems; establishing the joint committee on enhanced and next generation 911; definitions; amending K.S.A. 2008 Supp. 12-5322, 12-5323, 12-5334, 12-5338 and 12-5361 and repealing the existing sections.";

and the substitute bill be passed.

COMMITTEE OF THE WHOLE

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

On motion of Senator Donovan the following report was adopted:

SB 25 be amended by adoption of the committee amendments, and be further amended by Senator Francisco on page 1, in line 36, by striking "operable" and inserting "open";

On page 2, in line 15, after "walls," by inserting "fences,"; also in line 15, by striking "an"; in line 16, by striking "opening" and inserting "openings"; also in line 16, by striking "is completely and" and inserting "are"; in line 17, by striking "comprises" and inserting "comprise"; also in line 17, by striking "75%" and inserting "30%"

SB 25 be further amended by Senator Owens on page 4, by striking all in lines 37 and 38;

And by renumbering the remaining paragraphs accordingly

SB 25 be further amended by Senator V. Schmidt on page 1, in line 16, preceding "K.S.A." by inserting "On and after January 2, 2010,"; in line 32, preceding "K.S.A." by inserting "On and after January 2, 2010,";

On page 3, in line 34, preceding "K.S.A." by inserting "On and after January 2, 2010,"; On page 5, in lines 6 and 17, preceding "K.S.A." by inserting "On and after January 2,

2010,";

On page 6, in line 16, preceding "K.S.A." by inserting "On and after January 2, 2010,"; On page 7, in line 6, by striking "The" and inserting "On and after January 2, 2010, the";

On page 7, in line 6, by striking "The" and inserting "On and after January 2, 2010, the"; following line 9, by inserting the following:

"Sec. 8. K.S.A. 2008 Supp. 79-3301 is hereby amended to read as follows: 79-3301. As used in this act K.S.A. 79-3301 et seq., and amendments thereto:

(a) "Carrier" means one who transports cigarettes from a manufacturer to a wholesale dealer or from one wholesale dealer to another.

(b) "Carton" means the container used by the manufacturer of cigarettes in which no more than 10 packages of cigarettes are placed prior to shipment from such manufacturer.

(c) "Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.

(d) "Consumer" means the person purchasing or receiving cigarettes or tobacco products for final use.

(e) "Dealer" means any person who engages in the sale or manufacture of cigarettes in the state of Kansas, and who is required to be licensed under the provisions of this act.

(f) "Dealer establishment" means any location or premises, other than vending machine locations, at or from which cigarettes are sold, and where records are kept.

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

(h) "Distributor" means: (1) Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without *outside* the state any tobacco products for sale;

(2) any person who makes, manufactures, fabricates or stores to bacco products in this state for sale in this state; or

(3) any person engaged in the business of selling tobacco products without *outside* this state who ships or transports tobacco products to any person in the business of selling tobacco products in this state.

(i) "Division" means the division of taxation.

(j) "License" means, in addition to the privilege of a licensee to sell cigarettes or tobacco products in the state of Kansas, *and* the written evidence of such authority or privilege to so operate as evidenced by any license *as* issued by the director of taxation.

(k) "Licensee" means any person holding a current license issued pursuant to this act.

(l) "Manufacturer's salesperson" means a person employed by a cigarette manufacturer who sells cigarettes, manufactured by such employer and procured from wholesale dealers. (m) "Meter imprints" means tax indicia applied by means of ink printing machines.

(n) (1) "Package" means a container in which no more than 25 individual cigarettes are wrapped and sealed by the manufacturer of cigarettes prior to shipment to a wholesale dealer.

(2) for the purposes of subsections (u), (v) and (w) of K.S.A. 79-3321, and amendments thereto, "package" shall have the meaning ascribed thereto means the same as provided in 15 U.S.C. 1332(4).

(o) "Person" means any individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity whether appointed by a court or otherwise and any combination of individuals.

(p) "Received" means the coming to rest of cigarettes for sale by any dealer in the state of Kansas.

 $\rm (q)$ "Retail dealer" means a person, other than a vending machine operator, in possession of cigarettes for the purpose of sale to a consumer.

(r) "Sale" means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes or tobacco products, with or without consideration.

(s) "Sample" means cigarettes or tobacco products distributed to members of the general public at no cost for purposes of promoting the product.

(t) "Self-service display" means a display that contains cigarettes or tobacco products and is located in an area openly accessible to a retail dealer's consumers, and from which such consumers can readily access cigarettes or tobacco products without the assistance of a salesperson. A display case that holds cigarettes or tobacco products behind locked doors does not constitute a self-service display.

 (\boldsymbol{u}) "Stamps" means tax indicia applied either by means of water applied gummed paper or heat process.

 $\langle \mathbf{u} \rangle \langle v \rangle$ "Tax indicia" means visible evidence of tax payment in the form of stamps or meter imprints.

 $\langle \mathbf{v} \rangle$ (w) "Tobacco products" means cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products does do not include cigarettes.

(x) "Tobacco speciality store" means a dealer establishment that derives at least 75% of such dealer establishment's revenue from cigarettes or tobacco products.

(w) (y) "Vending machine" means any coin operated machine, contrivance or device, by means of which merchandise may be sold.

 $\langle \mathbf{x} \rangle$ (z) "Vending machine distributor" means any person who sells cigarette vending machines to a vending machine operator operating vending machines in the state of Kansas.

 $\langle \mathbf{y} \rangle$ (*aa*) "Vending machine operator" means any person who places a vending machine, owned, leased or operated by such person, at locations where cigarettes are sold from the such vending machine. The owner or lessee of the premises upon which a vending machine is placed shall not be considered the operator of the machine, nor shall the owner or lessee, or any employee or agent of the owner or lessee be considered an authorized agent of the vending machine is a flat rental fee or commission based upon the number or value of cigarettes sold from the machine, or a combination of both.

 $\frac{\langle z \rangle}{(bb)}$ "Wholesale dealer" means any person who sells cigarettes to other wholesale dealers, retail dealers, vending machine operators and manufacturer's salespersons for the purpose of resale in the state of Kansas.

 $\frac{(aa)}{(cc)}$ "Wholesale sales price" means the original net invoice price for which *a* manufacturer sells a tobacco product to a distributor, as shown by the manufacturer's original invoice.

 $\frac{\text{(bb)}}{\text{(dd)}}$ "Importer" shall have the same meaning ascribed thereto means the same as provided in 26 U.S.C. 5702(1).

 $\frac{\langle cc \rangle}{\langle ce \rangle}$ "Manufacturer" shall have the same meaning ascribed thereto means the same as provided in 26 U.S.C. 5702(d).

Sec. 9. K.S.A. 2008 Supp. 79-3321 is hereby amended to read as follows: 79-3321. It shall be unlawful for any person:

(a) To possess, except as otherwise specifically provided by this act, more than 200 cigarettes without the required tax indicia being affixed as herein provided.

(b) To mutilate or attach to any individual package of cigarettes any stamp that has in any manner been mutilated or that has been heretofore attached to a different individual package of cigarettes or to have in possession any stamps so mutilated.

(c) To prevent the director or any officer or agent authorized by law, to make a full inspection for the purpose of this act, of any place of business and all premises connected thereto where cigarettes are or may be manufactured, sold, distributed, or given away.

(d) To use any artful device or deceptive practice to conceal any violation of this act or to mislead the director or officer or agent authorized by law in the enforcement of this act.

(e) Who is a dealer to fail to produce on demand of the director or any officer or agent authorized by law any records or invoices required to be kept by such person.

(f) Knowingly to make, use, or present to the director or agent thereof any falsified invoice or falsely state the nature or quantity of the goods therein invoiced.

(g) Who is a dealer to fail or refuse to keep and preserve for the time and in the manner required herein by this act all the records required by this act to be kept and preserved.

(h) To wholesale cigarettes to any person, other than a manufacturer's salesperson, retail dealer or wholesaler who is:

(1) Duly licensed by the state where such manufacturer's sales person, retail dealer or wholesaler is located; or

(2) exempt from state licensing under applicable state or federal laws or court decisions including any such person operating as a retail dealer upon land allotted to or held in trust for an Indian tribe recognized by the United States bureau of Indian affairs.

(i) To have in possession any evidence of tax indicia provided for herein not purchased from the director.

(j) To fail or refuse to permit the director or any officer or agent authorized by law to inspect a carrier transporting cigarettes.

(k) To vend small cigars, or any products so wrapped as to be confused with cigarettes, from a machine vending cigarettes, nor shall a vending machine be so built to vend cigars or products that may be confused with cigarettes, be attached to a cigarette vending machine.

(l) To sell, furnish or distribute cigarettes or tobacco products to any person under 18 years of age.

(m) Who is under 18 years of age to purchase or attempt to purchase cigarettes or tobacco products.

(n) Who is under 18 years of age to possess or attempt to possess cigarettes or to bacco products.

(o) To sell cigarettes to a retailer or at retail that do not bear Kansas tax indicia or upon which the Kansas cigarette tax has not been paid.

(p) To sell cigarettes without having a license for such sale as provided herein.

(q) To sell a vending machine without having a vending machine distributor's license.

(r) Who is a retail dealer to fail to post and maintain in a conspicuous place in the dealer's establishment the following notice: "By law, cigarettes and tobacco products may be sold only to persons 18 years of age and older."

(s) To distribute samples within 500 feet of any school when such facility is being used primarily by persons under 18 years of age unless the sampling is: (1) In an area to which persons under 18 years of age are denied access;

(2) in or at a retail location where cigarettes and tobacco products are the primary commodity offered for sale at retail; or

(3) at or adjacent to an outdoor production, repair or construction site or facility.

(t) To sell cigarettes or tobacco products by means of a vending machine in any establishment, or portion of an establishment, which is open to minors, except that this subsection shall not apply to:

(1) The installation and use by the proprietor of the establishment, or by the proprietor's agents or employees, of vending machines behind a counter, or in some place in such establishment, or portion thereof, to which minors are prohibited by law from having access;

(2) the installation and use of a vending machine in a commercial building or industrial plant, or portions thereof, where the public is not customarily admitted and where machines are intended for the sole use of adult employees employed in the building or plant; or

(3) a vending machine which has a lock-out device which is inoperable in the continuous standby mode and which requires manual activation by the person supervising the operation of the machine each time cigarettes or tobacco products are purchased from the machine.

(u) To sell cigarettes or tobacco products by means of a self-service display in any establishment, except that the provisions of this subsection shall not apply to:

(1) A vending machine that is permitted under subsection (t); or

(2) a self-service display that is located in a tobacco specialty store.

(v) To sell or distribute in this state; to acquire, hold, own, possess or transport for sale or distribution in this state; or to import or cause to be imported, into this state for sale or distribution in this state:

(1) Any cigarettes the package of which (A) bears any statement, label, stamp, sticker or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed or used in the United States, including but not limited to, labels stating "For Export Only", "U.S. Tax-Exempt", "For Use Outside U.S." or similar wording; or (B) does not comply with (i) all requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged or imported for sale, distribution or use in the United States, including but not limited to the precise warning labels specified in the federal cigarette labeling and advertising act, 15 U.S.C. 1333; and (ii) all federal trademark and copyright laws;

(2) any cigarettes imported into the United States in violation of 26 U.S.C. 5754 or any other federal law, or federal regulations implementing such laws;

(3) any cigarettes that such person otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed or used in the United States; or

(4) any cigarettes for which there has not been submitted to the secretary of the U.S. department of health and human services the list or lists of the ingredients added to tobacco in the manufacture of such cigarettes required by the federal cigarette labeling and advertising act, 15 U.S.C. 1335a.

 $\langle \mathbf{v} \rangle$ (*w*) To alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure:

(1) Any statement, label, stamp, sticker or notice described in subsection (u) of K.S.A. 79-3321, and amendments thereto (v); or

(2) any health warning that is not specified in, or does not conform with, the requirements of, the federal cigarette labeling and advertising act, 15 U.S.C. 1333.

 (\mathbf{w}) (x) To affix any stamp required pursuant to K.S.A. 79-3311, and amendments thereto, to the package of any cigarettes described in subsection (\mathbf{w}) (v) or altered in violation of subsection (\mathbf{w}) .

Sec. 10. K.S.A. 2008 Supp. 79-3301 and 79-3321 are hereby repealed."; And by renumbering the remaining sections accordingly;

Also on page 7, in line 10, preceding "K.S.A." by inserting "On January 2, 1010,"; in line 13, by striking all preceding "its";

In the title, in line 10, by striking "creating the Kansas indoor clean air act;"; in line 11, following "smoking" by inserting "and cigarette sales"; in line 12, preceding "repealing" by inserting "K.S.A. 2008 Supp. 79-3301 and 79-3321 and"

SB 25 be further amended by Senator D. Schmidt on page 5, in line 4, by striking "and"; in line 5, by striking the period and inserting "; and

(8) a class A or class B club defined in K.S.A. 41-2601, and amendments thereto, which (A) held a license pursuant to K.S.A. 41-2606 et seq., and amendments thereto, as of January 1, 2009; and (B) notifies the secretary of health and environment in writing, not later than

90 days after the effective date of this act, that it wishes to continue to allow smoking on its premises."

SB 25 be further amended by Senator Kultala on page 2, after line 35, by inserting the following:

"(g) "Gaming floor" means the area of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto, where patrons engage in Class III gaming. The gaming floor shall not include any areas used for accounting, maintenance, surveillance, security, administrative offices, storage, cash or cash counting, records, food service, lodging or entertainment, except that the gaming floor may include a bar where alcoholic beverages are served so long as the bar is located entirely within the area where Class III gaming is conducted.";

And by relettering the remaining subsections accordingly;

On page 4, after line 36, by inserting the following:

"(4) the gaming floor of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto;";

And by renumbering the remaining paragraphs accordingly, and ${\bf SB}$ 25 be passed as further amended.

A motion by Senator Taddiken to amend **SB 25** failed and the following amendment was rejected: on page 2, preceding line 40, by inserting the following:

"(h) "physically separated" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows, exclusive of door or passageway, and independently ventilated from smoke-free areas, so that air within permitted smoking areas does not drift or get vented into smoke-free areas;";

And by relettering the remaining subsections accordingly;

On page 5, in line 4, by striking "and" where it appears for the second time; in line 5, by striking the period and inserting "; and

(8) a designated smoking area that is physically separate from the nonsmoking area in restaurants or bars."

Senator Huelskamp offered an amendment to **SB 25**; a ruling of the chair was requested as to the germaneness of the amendment. The chair ruled the amendment not germane to the bill.

Senator Pyle offered an amendment to ${\bf SB}$ 25; a ruling of the chair was requested as to the germaneness of the amendment. The chair ruled the amendment not germane to the bill.

Senator Wysong withdrew an amendment on SB 25.

Senator Masterson withdrew an amendment on SB 25.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, February 17, 2009.

Journal of the Senate

TWENTY-SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Tuesday, February 17, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-nine senators present. Senator Wagle was excused. President Morris introduced as guest chaplain, Father Tim Haberkorn, Sacred Heart-St.

Joseph Catholic Church, Topeka, Kansas, who delivered the invocation:

God of all Creation, we ask that you send us your blessings this day. May your grace guide us in the work that we have been called to accomplish this day. May we be mindful of the needs of all our brothers and sisters. Give us the wisdom and courage to work for the betterment of all peoples. Let us strive to build a much stronger community in which we live. Let us seek to promote the values of freedom and peace for all those we have been called to serve. Grant us your blessings today and always. We ask all these things in faith. Amen

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 277, An act concerning the judicial council; relating to the commission on judicial performance; funding the Kansas criminal code recodification commission; amending K.S.A. 20-2207, 20-2208 and 20-3207 and K.S.A. 2008 Supp. 20-3202 and 20-3205 and repealing the existing sections, by Committee on Ways and Means.

SB 278, An act concerning driving under the influence; creating the Kansas highway safety commission; relating to penalties; division of vehicles; district magistrate judges; jurisdiction; amending K.S.A. 20-302b and 20-329 and K.S.A. 2008 Supp. 8-1567 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 279, An act concerning crimes, punishment and criminal procedure; relating to involuntary manslaughter while driving under the influence of alcohol or drugs; sentencing; amending K.S.A. 21-3442 and K.S.A. 2008 Supp. 21-4704 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 280, An act concerning suspension and restriction of driving privileges; relating to persons less than 21 years of age; amending K.S.A. 2008 Supp. 8-1014 and repealing the existing section, by Committee on Ways and Means.

SB 281, An act concerning crimes, punishment and criminal procedure; relating to sentencing; severity level 4 drug crimes; amending K.S.A. 21-4611 and repealing the existing section, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated: Financial Institutions & Insurance: **HB 2091, HB 2092**, **HB 2185**. Judiciary: **HB 2096, HB 2097**. Transportation: **SB 276**.

CHANGE OF REFERENCE

The President withdrew SB 12, SB 136, SB 174, SB 195 from the Committee on Financial Institutions and Insurance, and referred the bills to the Committee on Ways and Means.

The President withdrew SB 182, SB 184, SB 214 from the Committee on Natural Resources, and referred the bills to the Committee on Ways and Means.

The President withdrew SB 112, SB 157, SB 233, SB 234, SB 236 from the Committee on Judiciary and referred the bills to the Committee on Ways and Means.

The President withdrew **SB 217** from the Committee on **Útilities**, and referred the bill to the Committee on **Ways and Means**.

MESSAGE FROM THE HOUSE

Announcing passage of HB 2003, HB 2004, HB 2007, HB 2039, HB 2059, HB 2147.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2003, HB 2004, HB 2007, HB 2039, HB 2059, HB 2147 were thereupon introduced and read by title.

FINAL ACTION ON CONSENT CALENDAR

SB 123, SB 135, SB 137, SB 139, SB 156 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

SB 123, An act relating to antique vehicles; concerning certain license plates; amending K.S.A. 2008 Supp. 8-172 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Wagle.

The bill passed.

SB 135, An act concerning the Kansas open meetings act; relating to serial meetings; amending K.S.A. 2008 Supp. 75-4318 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Wagle.

The bill passed.

SB 137, An act concerning viatical settlements; exempting actions by the securities commissioner from the viatical settlements act of 2002; amending K.S.A. 2008 Supp. 40-5012a and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Wagle.

The bill passed.

SB 139, An act relating to insurance; concerning deposits and securities; relating to the federal home loan bank; amending K.S.A. 40-2a20 and 40-2b20 and K.S.A. 2008 Supp. 40-229a and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Wagle.

The bill passed.

SB 156, An act concerning corporations; relating to close corporations; amending K.S.A. 17-7207 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Wagle. The bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 25, An act concerning crimes and punishments; relating to smoking and cigarette sales; amending K.S.A. 21-3105, 21-4009, 21-4010, 21-4011, 21-4012 and 65-530 and K.S.A. 2008 Supp. 79-3301 and 79-3321 and repealing the existing sections; also repealing K.S.A. 21-4016 and 21-4017, was considered on final action.

On roll call, the vote was: Yeas 26, Nays 13, Present and Passing 0, Absent or Not Voting 1.

Yeas: Barnett, Brownlee, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Kelly, Kelsey, Kultala, Lee, Lynn, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Apple, Bruce, Donovan, Holland, Huelskamp, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger.

Absent or Not Voting: Wagle.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: Comments were made that indicated that those who oppose this bill don't care about the health of citizens, or are in the pocket of big tobacco.

I would suggest there is another reason.

Is it desirable to protect all of the state's citizens from those vices that have a negative impact on themselves or other citizens?

Is smoking the only individual right that some people choose to engage in even when they know it's to their detriment and even knowing that it might have a negative impact on others around them? How about gambling, or drinking alcohol?

So, the question becomes, does the force of government require every individual who enjoys a vice that is legal to then submit to having their rights subsumed within the concept of "the state knows what is best."

Just as there are already many laws regarding cigarettes, there are many laws concerned with the use of alcohol and regulating gambling. Should we continue to try and regulate them out of existence?

The State cannot, nor should it be in the business of infringing on the rights of its citizens, even when those rights are counterproductive to good health and well being of that same citizen.—STEVE E. ABRAMS

Senator Ostmeyer requests the record to show he concurs with the "Explanation of Vote" offered by Senator Abrams on **SB 25**.

MR. PRESIDENT: This vote reminds me of the child who says he may be sitting down on the outside but he is standing up on the inside. I vote yes for the health of Kansans. However, to exempt casinos is wrong.

Additionally, honey attracts more support than the sharp words of the bill's author. I vote yes on **SB 25.**—KARIN BROWNLEE

MR. PRESIDENT: Like most of my constituents, I support a statewide smoking ban in public places. My community has made a similar decision on the local level which improved our quality of life.

Clearly the health impact of smoking on Kansans is severe. The data that smoking harms every Kansan exposed to it is overwhelming. I see this on a daily basis in my medical practice. It is a clear safety concern and has economic consequences.

This bill is imperfect and does not have the right balance. There has been hypocrisy from many sides. I am particularly troubled that this body has exempted state-owned businesses for economic reasons while denying private businesses—with which the state competes—the same consideration.

The debate has not been civil and less senatorial than Kansans expect from us. I believe the tone of the debate probably cost this body from coming up with a balance that would be supported by the vast majority of Kansans.

I hope we can work together with our colleagues in the House to find resolution to an issue that affects all Kansans.—JEFF COLYER

MR. PRESIDENT: I do have a strong belief in smaller government with an emphasis on personal and local control. There are compelling arguments on both sides so I must choose what I believe is the right thing to do for my district and for the entire state. As a former healthcare marketing director, my vote today is for the health of Kansan's and a commitment to public health for our citizens. My constituents expressed their support of a statewide indoor clean air act. We have reached a tipping point within our state and the citizens of Kansas have tipped towards the fact that this is a public health issue that concerns everyone. I am proud of the leadership my district took by enacting their own ordinances. This bill reflects a commitment to public health and will strengthen our initiative to receive the National Cancer Institute designation. This is testimony to our progressive and innovative policy on behalf of all the citizens of Kansas. So I vote yes to a healthy Kansas, yes to public health, and yes to **SB 25.** Thank you, Mr. President.—JULIA LYNN

MR. PRESIDENT: I vote NO. Yesterday, out of one side of the mouth, it was stated that if I disagreed with **SB 25** as it stood I was "in the pocket of big tobacco" and against health, yet out of the other side of the mouth voted to exempt "our" business, casinos, from the bill. I oppose this bill, not because I am in the pocket of tobacco, but because I am in the pocket of the people. How dare we openly recognize the negative effects of this bill by exempting our "state owned" business, but not consider the livelihood of our constituents who sent us here. I am not opposed to any kind of smoking ban, just this hypocritical one we have before us today.—TY MASTERSON

Senator Ostmeyer requests the record to show he concurs with the "Explanation of Vote" offered by Senator Masterson on **SB 25**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Schodorf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1825-

A RESOLUTION congratulating and commending

the 2008 Kansas National Board Certified Teachers.

WHEREAS, Twenty-seven of Kansas' finest educators have satisfied the highest professional qualifications of the National Board for Professional Teaching Standards to be designated as National Board Certified Teachers. They will be recognized as such at a program on February 19; and

WHEREAS, The 2008 Kansas National Board Certified Teachers are: Stacy Colhouer, Elmont Elementary School, Seaman USD 345; Monica Dreiling, Lincoln Elementary School, Hays USD 489; Pamela Fallis, Chaparral High School, Anthony-Harper USD 361; Freelon Goodson, Fort Riley Middle School, Geary County USD 475; Lori Greeson, Prairie Center Elementary School, Olathe USD 233; Claudia Griffith, Wichita West High School, Wichita USD 259; Jennifer Johnson, Blue Valley West High School, Blue Valley USD 229; Donna Lujano, Pleasant Valley Middle School, Wichita USD 259; Gena Mathes, Elmont Elementary School, Seaman USD 345; Patricia McKinney, Jackson Heights Elementary School, North Jackson USD 335; Abigail Neilburger, Blue Valley North High School, Blue Valley USD 229; Richard Nelson, Manhattan High School West/East Campus, Manhattan-Ogden USD 383; Sherry Nelson, Emporia High School, Emporia USD 253; Kathleen O'Keefe, Pleasant Valley Middle School, Wichita USD 259; Tyson Ostroski, Blue Valley West High School, Blue Valley USD 229; Judith Powell, Central Elementary School, Central USD 462; Joell Ramsdell, Arbor Creek Elementary School, Olathe USD 233; Leigh Rogers, Prairie Center Elementary School, Olathe USD 233; Debra Schapaugh, Frank V. Bergman Elementary School, Manhattan-Ogden USD 383; Gretchen Schmanke, Oregon Trail Jr. High School, Olathe USD 233; Regina Schutt, Linwood Elementary School, Wichita USD 259; Jennifer Sissell, Wichita Northwest High School, Wichita USD 259; Andrea Smith, Hocker Grove Middle School, Shawnee Mission USD 512; Jay Super, Maize Senior High School, Maize USD 266; Christine Walker, Arbor Creek Elementary School, Olathe USD 233; Charles Wells, Emporia High School, Emporia USD 253; Kristin Wright, Clay Center Middle School, Clay Center USD 379; and

WHEREAS, National Board Certification, a voluntary process established by the National Board for Professional Teaching Standards, is a symbol of professional teaching excellence. It is achieved through a performance-based assessment process that measures a teacher's practice against high and rigorous advanced standards to demonstrate accomplished practice. Through a series of assessments, teachers demonstrate their subject matter knowledge, provide evidence that they know how to teach their subjects to students most effectively, and demonstrate their ability to manage and measure student learning; and

WHEREAS, The National Board for Professional Teaching Standards is an independent, nonprofit, non-partisan and non-governmental organization. Its mission is to advance the quality of teaching and learning by: Maintaining high and rigorous standards for what accomplished teachers should know and be able to do; providing a national voluntary system certifying teachers who meet these standards; and advocating related education reforms to integrate National Board Certification in American education and to capitalize on the expertise of National Board Certified Teachers: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend each of these outstanding educators who have attained the status of National Board Certified Teachers; and

Be it further resolved: That the Secretary of the Senate provide 27 enrolled copies of this resolution to the Commissioner of Education for forwarding to each of the teachers so honored plus a copy to the Commissioner of Education.

On emergency motion of Senator Schodorf SR 1825 was adopted unanimously.

Senator Schodorf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1826-

A RESOLUTION congratulating and commending

the 2009 Horizon Award Program educators.

WHEREAS, Thirty-two beginning educators from across the state have been named as Kansas Horizon Award Program educators; and

WHEREAS, The Kansas Horizon Award Program, sponsored by Kansas State Department of Education, identifies and recognizes representatives of excellent teaching in the elementary and secondary classrooms of the state. The mission of the Kansas Horizon Award Program is to recognize exemplary first-year teachers who perform in a way that distinguishes them as outstanding; and WHEREAS, The Kansas Horizon Award Program, currently in its seventh year, allows all school districts in the state an opportunity to nominate one elementary and one secondary teacher for the award. To be eligible for a Kansas Horizon Award, teachers must have successfully completed their first year of teaching and have performed in such a way as to distinguish themselves as outstanding. The Kansas Horizon Award Program is a regional competition with four regions corresponding to the state's United States congressional districts. Four elementary and four secondary classroom teachers may be selected for the award from each district; and

WHEREAS, This year's recipients are: Region 1: Rene Burns and Kathryn O'Loughlin, McCarthy Elementary School, Hays USD 489; Heidi Cabral, Eisenhower Elementary School, Great Bend USD 428; Daniel Dinkel, Sheridan Elementary School, Geary County USD 475; Gena Langley, Riverside Elementary School, Emporia USD 253; Brandi Lundgren, Junction City Middle School, Geary County USD 475; Tiffany Shogren, Emporia Middle School, Emporia USD 253; Teresa Sindelar, Buhler High School, Buhler USD 313; Lisa Twombly, Hiawatha Middle School, Hiawatha USD 415; and

Region 2: Jamie Anthony, Riley County High School, Riley County USD 378; Jodie Berve, Louisburg High School, Louisburg USD 416; Maeghan Bishop, Washburn Rural High School, Auburn Washburn USD 437; Catherine Drake, Central Elementary School, Wamego USD 320; Constance Hanika, Highland Park Central Elementary School, Topeka USD 501; Amanda Provorse, Washburn Rural Middle School, Auburn Washburn USD 437; Jamie Wagner, Tecumseh North Elementary School, Shawnee Heights USD 450; Andrew Wesner, Paola High School, Paola USD 368; and

Region 3: Audrey Baker, Pioneer Ridge Middle School, Gardner-Edgerton USD 231; David Davis, Harmony Middle School, Blue Valley USD 229; Chaussee Duren, Trailridge Middle School, Shawnee Mission USD 512; Molly Dykman, Delaware Ridge Elementary School, Bonner Springs USD 204; Kris Munsch, Bonner Springs High School, Bonner Springs USD 204; Kate Phillips, Liberty View Elementary School, Blue Valley USD 229; Amanda Vail, Prairie Park Elementary School, Lawrence USD 497; Katie Weil, Gardner Edgerton High School, Gardner-Edgerton USD 231; and

Region 4: Megan Belisle, Jefferson Elementary School, Wichita USD 259; Jessica Bloyd, Haysville Middle School, Haysville USD 261; April Davis, Freeman Elementary School, Haysville USD 261; Emily Huelskamp, Andover Central High School, Andover USD 385; Jacy Kile, Garfield Elementary School, Augusta USD 402; Dustin Murray, Andover Middle School, Andover USD 385; Kristin Tombaugh, Santa Fe Middle School, Newton USD 373; Blake Vargas, El Dorado Middle School, El Dorado USD 490: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the 2009 Kansas Horizon Award Program educators for outstanding performance in their chosen career; and

Be it further resolved: That the Secretary of the Senate provide 32 enrolled copies of this resolution to the Commissioner of Education for forwarding to each educator so honored plus one copy for the Commissioner of Education.

On emergency motion of Senator Schodorf SR 1826 was adopted unanimously.

Senator Schodorf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1827-

A RESOLUTION congratulating and commending the Kansas recipient of the 2008 Milken Family Foundation National Educator Award.

WHEREAS, Vanessa Martinez, an assistant principal at Horace Mann Dual Language Magnet School, Wichita USD 259, has been selected as the Kansas recipient of the 2008 Milken Family Foundation National Educator Award. She will receive an unrestricted award of \$25,000 plus recognition by her community, school and peers; and

WHEREAS, The Milken National Educator Awards program was established by the Milken Family Foundation in 1985 and the first awards were presented in 1987; and

WHEREAS, The Milken Family Foundation National Educator Awards program provides public recognition and financial awards to elementary and secondary school teachers, principals and other educational professionals who are furthering excellence in education. By honoring outstanding educators, the program strives to attract, retain and motivate talented people to the challenge and adventure of teaching; and

WHEREAS, The Milken National Educator Awards are announced each fall at surprise notifications held in all-school assemblies. Foundation representatives and the chief state school officer make the announcements. This year 48 states and the District of Columbia participated in the program. By publicizing these awards our communities are reminded of the crucial, positive impact of educators. Furthermore, it is hoped these awards will attract the attention of those who might consider teaching as a rewarding career choice: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Vanessa Martinez upon her selection as the Kansas recipient of the 2008 Milken Family Foundation National Educator Award; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to the Commissioner of Education for forwarding to the 2008 Milken Educator. On emergency motion of Senator Schodorf **SR 1827** was adopted unanimously.

REPORT ON ENROLLED BILLS

H Sub for Sub SB 23 reported correctly enrolled, properly signed and presented to the Governor on February 17, 2009.

SR 1817, SR 1818, SR 1820, SR 1821, SR 1822, SR 1823, SR 1824 reported correctly enrolled, properly signed and presented to the Secretary of the Senate February 17, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **SB 203** be amended on page 2, after line 6, by inserting the following:

"(d) The secretary is authorized to receive lodging inspection reports from qualified individuals, private entities or public entities to determine compliance with lodging standards promulgated pursuant to the food service and lodging act, and amendments thereto. The secretary is authorized to promulgate such rules and regulations as are necessary to receive such inspection reports.";

And by relettering the remaining subsection;

On page 3, in line 24, after the period by inserting "Any person not otherwise required to be licensed under this section who prepares, serves or sells food for the sole purpose of soliciting funds to be used for community projects, educational and youth activities or humanitarian purposes, shall not be required to obtain a license under this section."; in line 41, by striking all after the period; by striking all in lines 42 and 43;

On page 4, by striking all in lines 1 through 6; in line 7, by striking all before "This"; and the bill be passed as amended.

Committee on **Assessment and Taxation** recommends **SB 228** be amended on page 5, in line 18, by striking "1995" and inserting "2009"; and the bill be passed as amended.

Committee on Education recommends SB 162 be passed.

Committee on **Financial Institutions and Insurance** recommends **SB 49** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Also, **SB 39** be amended on page 1, in line 17, by striking "and approved by"; in line 18, by striking all preceding "invest" and inserting "may seek approval from the pooled money investment board as provided in subsection (b) to"; following line 36, by inserting the following:

"(b) On condition of approving the investment policy of any city, county or school district, the pooled money investment board shall review the policy to assure that it addresses liquidity, diversification, safety of principal, yield, maturity and quality and capability of investment management staff. In addition, the policy shall provide procedures for compliance with subsection (c) of K.S.A. 12-1675, and amendments thereto, and a certification from the investment management staff that those procedures have been followed.";

Also on page 1, in line 40, following the period by inserting "On condition of approving the investment policy, the pooled money investment board shall review the policy to assure that it addresses liquidity, diversification, safety of principal, yield, maturity and quality and

capability of investment management staff. In addition, the policy shall provide procedures for compliance with subsection (c) of K.S.A. 12-1675, and amendments thereto, a certification from the investment management staff that those procedures have been followed and a listing of the banks, savings and loan associations and savings banks from which the city, county or school district requested bids in the preceding year."; by striking all in lines 41 through 43;

And by relettering subsections accordingly;

And the bill be passed as amended.

SB 163 be amended on page 2, in line 9, by striking all following "or"; in line 10, by striking all preceding "is" and by inserting "who holds or services an existing extension of credit of the applicant who is the subject of the report";

On page 4, in line 30, following "(13)" by inserting "(A)"; also in line 30, by striking "a written or" and inserting "an"; in line 37, by striking the period and inserting ";

(B) making a written solicitation for products or services based on a mortgage trigger lead unless the solicitation clearly and conspicuously states on the first page of the solicitation that the solicitor is not affiliated with the lender or broker with which the consumer initially applied and that the solicitation is based on personal information about the consumer that was purchased, directly or indirectly, from a consumer reporting agency without the knowledge or permission of the lender or broker with which the consumer initially applied. Clear and conspicuous shall include legible type in contrast by typography, layout or color with other printing on the first page of the correspondence; and

(C) if applicable, any solicitor under clause (A) or (B) shall be in compliance with the provisions of the Kansas mortgage business act and any other law or regulation.";

And the bill be passed as amended.

Committee on Judiciary recommends SB 154 be passed.

Also, SB 87 be amended on page 7, in line 24, by striking "when the release"; by striking all in line 25; in line 26, by striking "person"; On page 13, in line 41, after "law" by inserting "requiring confidentiality or"; also in line

13, by striking "or requiring confidentiality";

On page 19, in line 13, by striking "and"; in line 16, by striking the period and inserting "; and

(3) the matter is entirely within one or more of the following categories:

(A) A monetary amount of not more than \$100;

(B) the denial of an application after the applicant has abandoned the application;

(C) the denial, in whole or in part, of an application if the applicant has an opportunity for administrative review in accordance with K.S.A. 77-511, and amendments thereto;

(D) a matter that is resolved on the sole basis of inspections, examinations or tests; or

(E) any matter having only trivial potential impact upon the affected parties."; and the bill be passed as amended.

Committee on Transportation recommends SB 142 be amended on page 1, in line 15, by striking "through 6" and inserting ", 2, 3 and 5"; in line 31, by striking "and fa-"; in line 32, by striking "talities; and" and inserting a semicolon; in line 33, by striking the period and inserting a semicolon; after line 33, by inserting the following:

"(3) accident rates and accident fatality rates, which account for the amount of crashes;

(4) number of crashes resulting in serious injury or death; and

(5) traffic volumes.";

On page 9, in line 24, by striking all after "remainder"; in line 25, by striking all before the period and inserting "as prescribed by K.S.A. 74-7336, and amendments thereto"; in line 27, after "enforcement" by inserting ", reimbursement, as soon as moneys are available therefor, of actual and necessary expenses paid from another fund of the department of transportation, or any other state agency to implement the safety corridor act'; by striking all in lines 32 through 43;

And by renumbering the remaining sections accordingly; and the bill be passed as amended.

Committee on Utilities recommends SB 58 be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 58," as follows:

"Substitute for SENATE BILL No. 58 By Committee on Utilities

"AN ACT concerning utilities; relating to the underground utility damage prevention act; definitions; amending K.S.A. 66-1802, 66-1804, 66-1805 and 66-1806 and repealing the existing sections; also repealing K.S.A. 66-1802, as amended by section 5 of chapter 122 of the 2008 Session Laws of Kansas, 66-1804, as amended by section 6 of chapter 122 of the 2008 Session Laws of Kansas, 66-1805, as amended by section 7 of chapter 122 of the 2008 Session Laws of Kansas, 66-1806, as amended by section 8 of chapter 122 of the 2008 Session Laws of Kansas, section 9 of chapter 122 of the 2008 Session Laws of Kansas, section 9 of chapter 122 of the 2008 Session Laws of Kansas, section 9 of chapter 122 of Kansas.";

the substitute bill be passed.

Committee on Ways and Means recommends SB 74 be passed.

COMMITTEE OF THE WHOLE

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

On motion of Senator Brownlee the following report was adopted:

Recommended SB 46, SB 60, SB 122, SB 145, SB 171, SB 187 be passed.

SB 148, SB 168, SB 219 be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee report on **SB 28** recommending a **Sub SB 28** be adopted, and the substitute bill be passed.

A motion by Senator Holland to amend **SB 28** failed and the following amendment was rejected: on page 1, after line 14, by inserting the following:

"Section 1. K.S.A. 2008 Supp. 8-1602 is hereby amended to read as follows: 8-1602. (a) The driver of any vehicle involved in an accident resulting in injury to, great bodily harm to or death of any person shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible, but shall then forthwith return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of K.S.A. 8-1604, and amendments thereto. Every such stop shall be made without obstructing traffic more than is necessary.

(b) A person who violates this section which results in:

(1) Injury to any person shall be guilty of a class A person misdemeanor.

(2) Great bodily harm to any person shall be guilty of a severity level 10, person felony.

(3) The death of any person shall be guilty of a severity level 9, person felony. *In addition* to any other penalty provided for a violation of this paragraph, the court shall upon a conviction of such a violation:

(A) If the violator is under 18 years of age, order the division of vehicles to suspend the driving privileges of such violator until such date as such violator turns 21 years of age. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator until such date as such violator turns 21 years of age whether or not the violator has a driver's license.

(B) If the violator is 18 years of age or older, order the division of vehicles to suspend the driving privileges of such violator for three years. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for three years whether or not the violator has a driver's license.

(c) The director may revoke the license or permit to drive or any nonresident operating privilege of any person so convicted.";

And by renumbering the remaining sections accordingly;

On page 8, in line 21, by striking "is" and inserting "and K.S.A. 2008 Supp. 8-1602 are"; On page 1, in the title, in line 11, after "analog." by inserting "leaving the scene of an accident;"; a lso in line 11, after "21-4603d" by inserting "and K.S.A. 2008 Supp. 8-1602"; in line 12, by striking "section" and inserting "sections"

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, February 18, 2009.

Journal of the Senate

TWENTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, February 18, 2009—2:30 p.m.

The Senate was called to order by Vice President John Vratil. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

There is no doubt that we are caught in a serious dilemma. The whole country is.

There is an old saying that "When the going gets tough, the tough get going." That's probably true, O God, but going *where*?

Abraham Lincoln was caught in perhaps the worst situation any American President has ever experienced. At least North Kansas and South Kansas are not involved in a bloody war!

But to answer the question "Where do we go when the going gets tough?" I would like to remind myself and the Senate of a confession President Lincoln made, "I have been driven many times to my knees by the overwhelming conviction that I had nowhere to go but prayer. My own wisdom and that of all about me seemed insufficient for the day." O God, I earnestly pray that no one in the Executive, Legislative, and Judicial branches of our state government will ever consider You irrelevant in times like these.

It's obvious "honest Abe" did not.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: HB 2003, HB 2004, HB 2007.

Judiciary: SB 277, SB 278, SB 279, SB 280, SB 281; HB 2039, HB 2059. Transportation: HB 2147.

CHANGE OF REFERENCE

The Vice President withdrew **SB 185** from the Committee on **Agriculture**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew SB 147, SB 220 from the Committee on Public Health and Welfare, and referred the bills to the Committee on Ways and Means.

The Vice President withdrew SB 177, SB 242, SB 243, SB 244, SB 255 from the Committee on Assessment and Taxation, and referred the bills to the Committee on Ways and Means.

The Vice President withdrew **SB 241** from the Committee on **Financial Institutions** and **Insurance**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **SB 114** from the Committee on **Local Government**, and referred the bill to the Committee on **Federal and State Affairs**.

The Vice President withdrew SB 12, SB 136, SB 174, SB 195 from the Committee on Ways and Means, and rereferred the bills to the Committee on Financial Institutions and Insurance.

The Vice President withdrew SB 182, SB 184, SB 214 from the Committee on Ways and Means, and rereferred the bills to the Committee on Natural Resources.

The Vice President withdrew **SB 112, SB 157, SB 233, SB 234, SB 236** from the Committee on **Ways and Means** and rereferred the bills to the Committee on **Judiciary.**

The President withdrew **SB 217** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Utilities**.

MESSAGE FROM THE GOVERNOR

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return House Substitute for Substitute for Senate Bill No. 23 with my signature approving the bill, except for the items enumerated below.

With these line-item vetoes and accompanying allotments, the total reduction in the Fiscal Year 2009 budget, passed by the Legislature, will be \$300 million. These cuts were achieved through a strategic and responsible approach to successfully meet the budget challenges we face as a state in these difficult economic times.

I have already proposed a balanced budget for Fiscal Year 2010, and it is now time for the Legislature to turn its focus to the future, and join me in developing shared solutions to overcome the even greater challenges that lie ahead.

Department of Administration

KPERS Debt Service

Section 37 (t) has been line-item vetoed in its entirety.

Although the Legislature recognized the budgetary savings arising from restructuring several bond issuances, the restructuring of the KPERS bond cannot occur until approved by the State Finance Council. Since a meeting of the Council scheduled to discuss this issue did not occur, that approval has not yet been given. For this reason, I find it necessary to veto this portion of the bill that lapses the debt service. This will ensure the monies remain in the Department's budget so that the state does not fail to meet its obligations to make debt service payments.

Department of Education

Reductions to Schools

Section 53 (a) has been line-item vetoed in its entirety.

Section 53 (b) has been line-item vetoed in its entirety.

Drastically reducing state aid to schools, with only three months left in the school year, leaves children, parents and teachers in a needless financial predicament. Similarly, reducing funding for special education services in the middle of the school year is pointlessly punitive to those students in need of additional assistance. The state also must preserve special education funding to ensure we can access federal stimulus funds requiring maintenance of effort in special education spending at the state level.

Through allotment authority, I intend to follow the lead of the bipartisan efforts in the Legislature to reduce school funding by only \$33 per pupil, instead of the more severe \$66 per pupil as agreed to in conference committee on SB 23.

University of Kansas Medical Center

Wichita Center for Graduate Medical Education

Section 66 (e) has been line-item vetoed in its entirety.

The revised fiscal year 2009 budget already includes \$2.5 million in additional funding for the Wichita Center for Graduate Medical Education. I will be asking the Kansas Board of Regents to make a full and comprehensive recommendation for WCGME funding in the FY 2010 budget and look forward to working with the Legislature to act on their proposal.

Health Care Stabilization Fund

Transfer Limitation

Section 86 (b) has been line-item vetoed in its entirety.

With this veto and accompanying allotment, I am restoring my original budget recommendations to limit transfers to the Heath Care Stabilization Fund, helping to preserve State General Fund balances.

Kansas Bioscience Authority

Transfer Limitation

Section 86 (h) has been line-item vetoed in its entirety.

With this veto and accompanying allotment, I am restoring my original budget recommendations to limit transfers to the Kansas Bioscience Authority, helping to preserve State General Fund balances.

Approved: February 17, 2009

Signed: Kathleen Sebelius

MESSAGE FROM THE HOUSE

Announcing passage of HB 2001, HB 2023, HB 2099, HB 2115, HB 2172, HB 2221.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2001, HB 2023, HB 2099, HB 2115, HB 2172, HB 2221 were thereupon introduced and read by title.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

Sub SB 28, An act concerning crimes, criminal procedure and punishment; relating to unlawful possession of a controlled substance or controlled substance analog; amending K.S.A. 21-4603d and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 4, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Faust-Goudeau, Francisco, Haley, Steineger.

Absent or Not Voting: Reitz.

The substitute bill passed.

SB 46, An act concerning port authorities; relating to sale of certain real or personal property; amending K.S.A. 12-3412 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed.

SB 60, An act concerning counties; relating to the sale of real property; relating to redevelopment districts within a federal enclave; amending K.S.A. 19-211 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, PilcherCook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed.

SB 122, An act relating to motor vehicles; concerning rebuilt salvage vehicles; amending K.S.A. 79-5104 and K.S.A. 2008 Supp. 8-135 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Pilcher-Cook.

Absent or Not Voting: Reitz.

The bill passed.

SB 145, An act regulating traffic; concerning driving in the right lane; amending K.S.A. 8-1522 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 33, Nays 6, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Nays: Francisco, Huelskamp, Lee, Pilcher-Cook, Pyle, Wagle.

Absent or Not Voting: Reitz.

The bill passed.

SB 148, An act concerning missing elderly persons; establishing the Kansas silver alert plan, was considered on final action.

On roll call, the vote was: Yeas 37, Nays 1, Present and Passing 1, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Pilcher-Cook.

Present and Passing: Francisco.

Absent or Not Voting: Reitz.

The bill passed, as amended.

SB 168, An act concerning electronic transactions; making certain acts unlawful; amending K.S.A. 16-1617 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed, as amended.

SB 171, An act concerning Sherman county; pertaining to the election of county commissioners; amending K.S.A. 19-201, 19-202, 19-203, 19-204 and 19-204a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Francisco.

Absent or Not Voting: Reitz.

The bill passed.

SB 187, An act enacting the state fire marshal commissioned inspector act, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed.

SB 219, An act concerning retirement and pensions; relating to the Kansas public employees retirement system; death and disability benefits; employer contributions; amending K.S.A. 2008 Supp. 74-4927 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed, as amended.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Huelskamp, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Pilcher-Cook, Pyle, D. Schmidt, Taddiken, Teichman, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1828-

A RESOLUTION urging the Kansas Congressional Delegation to oppose legislation that disenfranchises workers by removing their right to a private ballot union election.

WHEREAS, The right to a private, secret ballot when voting on external representation is fundamentally inherent in our representative Republic and shall not be infringed upon; and

WHEREAS, Passing the Employee Free Choice Act (EFCA; H.R. 800/S. 1041 as introduced in the 110th Congress) will replace a federally supervised private ballot election with a system that facilitates coercion and intimidation, known as "card check", whereby employees publically sign cards to vote for unionization; and

WHEREAS, 79% of the American people support a worker's right to a federally supervised secret ballot election when deciding whether or not to join a union; and

WHEREAS, Agreement in opposition to the EFCA is overwhelming; with 77% of Republicans, 82% of Democrats and 79% of independents believing in protecting private ballots; and

WHEREAS, In July 2002, before a United States House of Representatives subcommittee, a union employee testified that those who would not vote for a union in a public "card check" program were threatened with termination, deportation and loss of 401(k) and health benefits; and

FEBRUARY 18, 2009

WHEREAS, Chairman of the United States House of Representatives Education and Labor Committee, Representative Miller (D-CA), a staunch supporter of the American "card check" bill, sent a letter to Mexican government officials which stated, "... we feel that the private ballot is absolutely necessary in order to ensure workers are not intimidated into voting for a union they may otherwise not choose."; and

WHEREAS, The Employee Free Choice Act's mandatory binding arbitration provisions deny workers the right to participate in the collective bargaining process between employees and the union: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we find so-called "card check" legislation such as the Employee Free Choice Act to be detrimental to the rights of workers and an offence against democratic principles and that we urge all the members of the Kansas Congressional Delegation to support worker freedom by opposing the EFCA and any of its components in 2009 and in future years; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to each member of the Kansas Congressional Delegation.

REPORT ON ENGROSSED BILLS

SB 25 reported correctly engrossed February 18, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Commerce recommends SB 120 be passed.

Also, **SB 160** be amended on page 1, in line 18, by striking "September 1, 2009" and inserting "January 1, 2010"; in line 20, by striking "September 1, 2009" and inserting "January 1, 2010"; in line 22, by striking all after "(b)"; by striking all in lines 23 through 30 and inserting: "In calculating such minimum wage rate, an employer may include tips and gratuities received by an employee if such tips and gratuities have customarily constituted part of the remuneration of the employee and if the employee concerned actually received and retained such tips and gratuities. For employees receiving tips and gratuities, the employer shall pay a minimum wage of at least \$2.13 an hour. If when combined with the minimum wage rate prescribed in this subsection the amount of the employee's tips and gratuities are:

(1) At least equal to \$7.25 an hour, no further payment is required by the employer; or

(2) less than \$7.25 an hour, the employer must pay the employee the difference between \$7.25 an hour and the actual hourly amount received by the employee determined by combining the amount of tips and gratuities received by the employee with the minimum wage prescribed by this subsection paid by the employer."; and the bill be passed as amended.

Committee on **Education** recommends **SB 9** be amended on page 1, by striking all in lines 14 through 43;

By striking all on page 2;

On page 3, by striking all in lines 1 through 3; following line 3, by inserting:

"Section 1. (a) Sections 1 through 9, and amendments thereto, shall be known and may be cited as the state educational institution project delivery construction procurement act.

(b) The provisions of this act shall apply only to construction projects and construction project services totally funded by non-state moneys.

Sec. 2. As used in this act, unless the context expressly provides otherwise:

(a) "State educational institution" or "institution" means Fort Hays state university, Kansas state university of agriculture and applied science, Kansas state university veterinary medical center, Emporia state university, Pittsburg state university, university of Kansas, university of Kansas medical center, Wichita state university and Kansas state university, college of technology at Salina.

(b) "Alternative project delivery" means an integrated comprehensive building design and construction process, including all procedures, actions, sequences of events, contractual relations, obligations, interrelations and various forms of agreement all aimed at the successful completion of the design and construction of buildings and other structures whereby a construction manager or general contractor team is selected based on a qualifications and best value approach.

(c) "Ancillary technical services" include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing

air conditioning, ventilating, heating and other mechanical building systems and testing and consultant services that are determined by the institution to be required for the project.

(d) "Architectural services" means those services described by subsection (e) of K.S.A. 74-7003, and amendments thereto.

(e) "Best value selection" means a selection based upon project cost, qualifications and other factors.

(f) (1) "Building construction" means furnishing labor, equipment, material or supplies used or consumed for the design, construction, alteration, renovation, repair or maintenance of a building or structure.

(2) "Building construction" does not include highways, roads, bridges, dams, turnpikes or related structures or stand-alone parking lots.

(g) "Construction project services" means the process of planning, acquiring, building, equipping, altering, repairing, improving, or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, excluding highways, roads, bridges, dams, turnpikes or related structures or stand-alone parking lots.

(h) "Construction management at-risk services" means the services provided by a firm which has entered into a contract with the institution to be the construction manager or general contractor for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor, and which is required to solicit competitive bids for the trade packages developed for the project and to enter into the trade contracts for a project with the lowest responsible bidder therefor. Construction management at-risk services may include, but are not limited to scheduling, value analysis, system analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees and construction coordination.

(i) "Construction management at-risk contract" means a contract under which an institution acquires from a construction manager or general contractor a series of preconstruction services and an at-risk financial obligation to carry out construction under a specified cost agreement.

(j) "Construction manager or general contractor" means any individual, partnership, joint venture, corporation, or other legal entity who is a member of the integrated project team with the institution, design professional and other consultants that may be required for the project, who utilizes skill and knowledge of general contracting to perform preconstruction services and competitively procures and contracts with specialty contractors assuming the responsibility and the risk for construction delivery within a specified cost and schedule terms including a guaranteed maximum price.

(k) "Design criteria consultant" means a person, corporation, partnership, or other legal entity duly registered and authorized to practice architecture or professional engineering in this state pursuant to K.S.A. 74-7003, and amendments thereto, and who is employed by contract to the institution to provide professional design and administrative services in connection with the preparation of the design criteria package.

(l) "Engineering services" means those services described by subsection (i) of K.S.A. 74-7003, and amendments thereto.

(m) "Guaranteed maximum price" means the cost of the work as defined in the contract.

(n) "Non-state moneys" has the meaning ascribed thereto by K.S.A. 76-756, and amendments thereto.

(o) "Parking lot" means a designated area constructed on the ground surface for parking motor vehicles. A parking lot included as part of a building construction project shall be subject to the provisions of this act. A parking lot designed and constructed as a stand-alone project shall not be subject to the provisions of this act.

(p) "Preconstruction services" means a series of services including, but not limited to: Design review, scheduling, cost control, value engineering, constructability evaluation and preparation and coordination of bid packages.

(q) (1) "Construction project" or "project" means the process of designing, constructing, reconstructing, altering or renovating a building or other structure.

(2) "Construction project" or "project" does not mean the process of designing, constructing, altering or repairing a public highway, road, bridge, dam, turnpike or related structure.

(r) "Procurement committee" means the state educational institution procurement committee established by section 6, and amendments thereto.

(s) "State board" means the state board of regents.

Sec. 3. (a) The procedure established in this section shall be used unless the use of the alternative project delivery process is determined appropriate as provided by section 6, and amendments thereto.

(b) All contracts for construction projects and construction project services shall be let by the institution to the lowest responsible bidder based on plans and specifications prepared for the project that received prior approval by the state board and the secretary of administration.

(c) (1) Upon any construction project for which plans and specifications will be prepared and bids let for the project as a whole the general contractor shall submit with the bid the names and addresses of subcontractors in accordance with paragraph (2) of this subsection. The general contractor shall submit the name and address of the electrical subcontractor for the electrical work portions of the project and the name and address of the mechanical subcontractor for the mechanical work portions of the project, if the general contractor will be subcontracting for such work. If there are project alternates listed in the bid documents and the general contractor's choice of subcontractors is dependent upon the combination of project alternates the state chooses, the general contractor shall submit for each combination of project alternates under which any subcontractor would change from the one named in the base bid, at the time such contractor submits such bid: (A) The name and address of the electrical subcontractor, if the general contractor will be subcontracting for the electrical work portions thereunder; and (B) the name and address of the mechanical subcontractor, if the general contractor will be subcontracting for the mechanical work portions thereunder. All changes and substitutions in listed subcontractors shall be subject to approval of the institution.

(2) The state board shall adopt a standard contract for use in connection with construction projects upon which bids are let for the project as a whole. No such standard contract adopted by the state board shall contain any provisions authorizing arbitration of any matters thereunder.

(3) The state board may adopt rules and regulations necessary for the implementation and administration of the provisions of this subsection.

(d) The provisions of this section shall not be construed to prohibit the administrative head of an institution from making any improvement or improvements when the same can be made by institutional labor or the use of material manufactured by an institution.

(e) The institution's purchasing department shall solicit sealed bids by publishing a notice once in the Kansas register not less than 10 days before the date stated in the notice for the opening of the bids. The institution's purchasing department with the approval of the state board may waive this publication of notice requirement when the state board determines that a more timely procurement is in the best interest of the institution. The institution's purchasing department also may designate a trade journal for the publication. The institution's perchasing department also may solicit such bids by sending notices by mail to prospective bidders and by posting the notice on a public bulletin board for at least 10 business days before the date stated in the notice for the opening of the bids unless otherwise provided by law. All bids shall be sealed when received and shall be opened in public at the hour stated in the notice.

(f) Competitive bids shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids.

(g) The institution's purchasing department shall have power to decide as to the lowest responsible bidder for all purchases, but if:

(1) The dollar amount of the bid received from the lowest responsible bidder from within the state is identical to the dollar amount of the bid received from the lowest responsible bidder from without the state, the contract shall be awarded to the bidder from within the state; and

(2) The institution's purchasing department may reject the bid of any bidder who is in arrears on taxes due the state, who is not properly registered to collect and remit taxes due the state or who has failed to perform satisfactorily on a previous contract with the state.

(h) All bids with the names of the bidders and the amounts thereof, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the institution's purchasing department for five years, unless reproduced as provided in K.S.A. 75-3737, and amendments thereto, and shall be open to public inspection as required by the Kansas open records act.

Sec. 4. Each change order to a contract entered into under the provisions of this act shall be related to an item or a matter that was included within the original program statement which was prepared and submitted with the capital improvement budget estimate for the project. Each such change order may be negotiated with a contractor performing work under the original contract for the project.

Sec. 5. (a) Construction projects shall not be subject to any building permit requirement or building code of any county, township, district, city or other political subdivision of this state or fees charged therefor. No construction project shall be subject to any inspection requirement or any requirement to obtain any permit, license or other instrument of approval for the project which is imposed by any city, township, district, city or other political subdivision of this state, except that such project shall be subject to reasonable inspections for the sole purpose of allowing members of the police and fire departments and other public emergency services personnel to become familiar with the project. As used in this section "building code" means any building code and includes any plumbing code, electrical wiring code, gas piping code or similar code. This act shall apply to all construction projects in existence prior to the effective date of this act and to those commenced on or after the effective date.

(b) Construction projects shall be exempt from the payment of fees relating to local zoning ordinances and resolutions, but the state shall reimburse a political subdivision for any related publication expenses incurred by the political subdivision.

Sec. 6. (a) As an alternative to the procedure established in section 3, and amendments thereto, the state board may establish an alternative project delivery program under which construction management at-risk procurement processes may be utilized for state educational institution construction projects. This authorization for construction management atrisk procurement shall be for the sole and exclusive use of planning, acquiring, designing, building, equipping, altering, repairing, improving or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property.

(b) The state board shall establish a state educational institution procurement committee which shall be composed of five members, or their designees, as follows: (1) The director of facilities at the state board who shall serve as chairperson of the committee; (2) an architect or engineer from a state educational institution; (3) a representative of the associated general contractors of Kansas appointed from a list of at least three nominees submitted by the association to the state board; (4) a representative of the American institute of architects appointed from a list of at least three nominees submitted by the association to the state board; (5) a representative of the American council of engineering companies appointed from a list of at least three nominees submitted by the association to the state board.

(c) The procurement committee shall review and approve requests for the utilization of alternative project delivery under the state educational institution project delivery building construction procurement act for capital improvement projects financed totally from non-state moneys. If the committee approves a request for utilization of alternative project delivery, the committee shall provide a shortlist of construction managers/design builders for use in such capital improvement project.

(d) The procurement committee shall approve those projects for which the use of alternative project delivery procurement process is appropriate. In making such determination, the committee shall consider the following factors: (1) The likelihood that the alternative project delivery method of procurement selected will serve the public interest by providing substantial savings of time or money over the traditional design-bid-build delivery process.

 $\left(2\right)$ The ability to overlap design and construction phases is required to meet the needs of the end user.

(3) The use of an accelerated schedule is required to make repairs resulting from an emergency situation.

(4) The project presents significant phasing or technical complexities, or both, requiring the use of an integrated team of designers and constructors to solve project challenges during the design or preconstruction phase.

(5) The use of an alternative project delivery method will not encourage favoritism in awarding the public contract or substantially diminish competition for the public contract.

(e) When a request is made for alternative delivery procurement by a state educational institution, the institution on behalf of the state board shall publish a notice in the Kansas register that the procurement committee will be holding a public hearing with the opportunity for comment on such request. Notice shall be published at least 15 days prior to the hearing.

(f) If the procurement committee finds that the project does not qualify for the alternative project delivery methods included under this act, then the construction services for such project shall be obtained pursuant to competitive bids and all contracts for construction services shall be awarded to the lowest responsible bidder in accordance with procurement procedures determined and administered by the state board which shall be consistent with the provisions of this act.

(g) When it is necessary in the judgment of an institution to obtain project services for a particular project as described under this act, the institution shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such request in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, and in such other appropriate manner as may be determined by the institution.

Sec. 7. Construction management at-risk project delivery procedures shall be conducted as follows:

(a) The state board shall determine the scope and level of detail required to permit qualified construction manager or general contractors to submit construction management at-risk proposals in accordance with the request for proposals given the nature of the project.

(b) Prior to completion of the construction documents, but as early as during the schematic design phase, the construction manager or general contractor shall be selected. The project design professional may be employed or retained by the institution to assist in the selection process.

(c) The institution shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such requests in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, and in such other appropriate manner as may be determined by the institution.

(d) The state board shall solicit proposals in a three stage qualifications based selection process. Phase I shall be the solicitation of qualifications and prequalifying a minimum of three but no more than five construction managers or general contractors to advance to phase II. Phase II shall be the solicitation of a request for proposal for the project, and phase III shall include an interview with each proposer to present their qualifications and answer questions.

(1) Phase I shall require all proposers to submit a statement of qualifications which shall include, but not be limited to:

(A) Similar project experience;

(B) experience in this type of project delivery system;

(C) references from design professionals and owners from previous projects;

(D) description of the construction manager's or general contractor's project management approach;

(E) financial statements; and

(F) bonding capacity.

Firms submitting a statement of qualifications shall be capable of providing a public works bond in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bonding capacity to the procurement committee with their statement of qualifications. If a firm fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection.

(2) The procurement committee shall evaluate the qualifications of all proposers in accordance with the instructions of the request for qualifications. The procurement committee shall prepare a short list containing a minimum of three and maximum of five qualified firms, which have the best and most relevant qualifications to perform the services required of the project, to participate in phase II of the selection process. If three qualified proposers cannot be identified, the selection process shall cease. The procurement committee shall have discretion to disqualify any proposer that, in the procurement committee's opinion, lacks the minimal qualifications required to perform the work.

(3) Phase II of the process shall be conducted as follows:

(A) Prequalified firms selected in phase I shall be given a request for proposal. The request for proposal shall require all proposers to submit a more in depth response including, but not be limited to:

(i) Company overview;

(ii) experience or references, or both, relative to the project under question;

(iii) resumes of proposed project personnel;

(iv) overview of preconstruction services;

(v) overview of construction planning;

(vi) proposed safety plan;

(vii) fees, including fees for preconstruction services, fees for general conditions, fees for overhead and profit and fees for self-performed work, if any.

(4) Phase III shall be conducted as follows:

(A) (i) Once all proposals have been submitted, a negotiating committee shall interview all of the proposers, allowing the competing firms to present their proposed team members, qualifications and project plan and to answer questions. Interview scores shall not account for more than 50% of the total possible score.

(ii) A negotiating committee shall be composed of the head of the institution for which the proposed construction project is planned, or a person designated by the head of the institution, and two other persons designated by the head of the institution for which the proposed project is planned.

(B) The negotiating committee shall select the firm providing the best value based on the proposal criteria and weighting factors utilized to emphasize important elements of each project. All scoring criteria and weighting factors shall be identified by the institution in the request for proposal instructions to proposers. The negotiating committee shall proceed to negotiate with and attempt to enter into a contract with the firm receiving the best total score to serve as the construction manager or general contractor for the project. If the negotiating committee be unable to negotiate a satisfactory contract with the firm scoring the best total score, negotiations with that firm shall be terminated, and the committee shall undertake negotiations with the firm with the next best total score, in accordance with this section.

(C) If the negotiating committee determines that it is not in the best interest of the institution to proceed with the project pursuant to the proposals offered, the negotiating committee shall reject all proposals. If all proposals are rejected, the state board may solicit new proposals using different design criteria, budget constraints or qualifications.

(D) The contract to perform construction management at-risk services for a project shall be prepared by the institution and entered into between the institution and the firm performing such construction management at-risk services. A construction management at-risk contract utilizing a cost plus guaranteed maximum price contract value shall return all savings under the guaranteed maximum price to the institution.

(E) The institution shall publish a construction services bid notice in the Kansas register and in such other appropriate manner for the construction manager or general contractor as may be determined by the institution. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager or general contractor and the institution. The institution may allow the construction manager or general contractor to self-perform construction services provided the construction manager or general contractor submits a bid proposal under the same conditions as all other competing firms. If a firm submitting a bid proposal fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection. At the time for opening the bids, the construction manager or general contractor shall evaluate the bids and shall determine the lowest responsible bidder except in the case of self-performed work for which the institution shall determine the lowest responsible bidder. The construction manager or general contractor shall enter into a contract with each firm performing the construction services for the project and make a public announcement of each firm selected in accordance with this subsection.

Sec. 8. (a) Each state educational institution may initiate and complete construction projects on state-owned property of the state educational institution from any non-state moneys granted, given to or otherwise received by the state educational institution if the construction projects have received prior approval by the state board and the plans and specifications for such projects have received prior approval by the secretary of administration. Such construction projects shall be totally financed from non-state moneys and the buildings and facilities shall become the property of the state of Kansas upon completion and acceptance by the secretary of administration. No such construction project for the construction of a building or facility shall be approved by the state board without having first advised and consulted with the joint committee on state building construction.

(b) A state educational institution may initiate and complete construction projects for repairs, remodeling or renovation of buildings and facilities located on state-owned property of the state educational institution from any non-state moneys granted, given to or otherwise received by the state educational institution if the construction projects for such repairs, remodeling or renovations have received prior approval by the state board and the plans and specifications for such projects have received prior approval by the state moneys and the repairs, remodeling or renovations shall be totally financed from non-state moneys and the repairs, remodeling or renovations shall become the property of the state of Kanasa upon completion and acceptance by the secretary of administration. No such construction projects to repair, remodel or renovate a building or facility shall be approved by the state board without having first advised and consulted with the joint committee on state building construction.

(c) Construction projects financed totally from non-state moneys shall be exempt from the provisions of K.S.A. 75-1251, 75-1252, 75-1253, 75-1254, 75-1255, 75-1256, 75-1257, 75-1258, 75-1269, 75-1260, 75-1261, 75-1262, 75-1263, 75-1264, 75-1265, 75-1266, 75-1267, 75-1268, 75-3739, 75-3740, 75-3741a, 75-3741a, 75-3741b, 75-3742, 75-3743, 75-3744, 75-5802, 75-5803, 75-5804, 75-5805, 75-5806 and 75-5807 and K.S.A. 2008 Supp. 75-37,141 75-37,142, 75-37,143 and 75-37,144, and amendments thereto. Such construction projects shall be inspected by the secretary of administration.

Sec. 9. The state board may adopt any rules and regulations necessary to implement the provisions of this act.";

And by renumbering the remaining section accordingly;

In the title, in line 9, by striking "capital im-"; by striking all in line 10; in line 11, by striking all before the period and inserting "construction improvement projects"; and the bill be passed as amended.

Also, **SB 84** be amended on page 1, in line 19, by striking all after the period; in line 20, by striking "covered in the program shall include, but not be limited to"; in line 21, by striking the colon; by striking all in lines 22 through 38;

On page 2, in line 3, after "develop" by inserting "state curriculum"; also in line 3, by striking "and objec-"; in line 4, by striking "tives"; in line 8, by striking "or similar" and inserting ", family and consumer science, accounting or other appropriate"; in line 10, by striking "sim-"; in line 11, by striking "ilar personal financial topics" and inserting "other topics concerning personal financial literacy"; in line 16, after "from" by inserting "and after July 1, 2012,"; and the bill be passed as amended.

SB 175 be amended on page 1, in line 35, by striking "donee" and inserting "donor"; and the bill be passed as amended.

SB 225 be amended on page 2, in line 35, after "each" by inserting "state fiscal"; in line 39, before the period, by inserting ", except that the amount transferred from the state general fund to the Kansas postsecondary education savings program trust fund shall not exceed the maximum amount specified by appropriation act for such purpose for that state fiscal year";

On page 3, by striking all in lines 5 through 13;

And by relettering the remaining subsection accordingly;

Also on page 3, in line 18, by striking "Kansas register" and inserting "statute book"; and the bill be passed as amended.

Committee on Federal and State Affairs recommends SB 115, SB 215 be passed.

Also, **SB 107** be amended on page 4, in line 37, by striking "and \$100 prize limit" and inserting ", \$100 prize limit and the \$3 charge limit";

On page 5, in line 29, after "shift" by inserting "and consumed on the premises"; in line 33, by striking "\$1,800" and inserting "\$1,500";

On page 6, after line 15, by inserting the following:

"(j) The charge made by a licensee for a bingo card or equivalent number of bingo faces to play in regular bingo games in any one session shall not exceed \$3. Such bingo card or equivalent number of bingo faces shall be valid for all such regular bingo games conducted or operated by the licensee in any one session. The charge made by a licensee for a single bingo card or bingo face to play in any single, mini or progressive special game shall not exceed \$3. The charge made by a licensee for a single instant bingo ticket shall not exceed \$3.";

And by relettering the remaining subsections accordingly;

Also on page 6, in line 42, by striking "Only" and inserting "Except as otherwise provided, only"; in line 43, by striking "\$500" and inserting "\$100";

On page 7, in line 3, by striking "six" and inserting "five"; in line 5, after the period, by inserting "Each licensee may conduct two drawings within a licensed year with a nonmonetary prize having a value not exceeding \$500. Such drawings shall be included in the total number of drawings conducted for the month in which they are held."; after line 13, by inserting the following:

"(r) No premises shall be used for the management, operation or conduct of games of bingo by licensees on more than four calendar days in any one week.";

And by relettering the remaining subsections accordingly;

On page 8, in line 3, by striking "two hours" and inserting "90 minutes";

On page 9, in line 38, by striking "two hours" where it appears both times, and inserting "90 minutes" in both places; and the bill be passed as amended.

SB 178 be amended on page 1, after line 16, by inserting the following:

"New Sec. 2. The secretary of the department of labor is hereby authorized to adopt rules and regulations necessary to implement and enforce the provisions of K.S.A. 2008 Supp. 44-1601 through 44-1612 and section 1, and amendments thereto.";

And by renumbering the remaining sections accordingly;

On page 2, in line 7, by striking "consecutive"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 240** be passed. Also, **SB 105** be amended on page 7, following line 29, by inserting the following:

"(d) The commissioner shall remit all such fines collected under subsection (c) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.";

Also on page 7, in line 30, by striking "(d)" and inserting "(e)";

On page 14, in line 20, following the period by inserting "The commissioner shall adopt such rules and regulations by July 1, 2010."; and the bill be passed as amended.

Committee on Judiciary recommends SB 69 be passed.

Also, **SB 237** be amended on page 2, in line 21, after "dealer" by inserting", or employee or agent of a dealer,"; in line 22, after "dealer" by inserting ", or employee or agent of such dealer"; in line 31, after "dealer" where it appears the second time, by inserting ", or employee or agent of the dealer,";

On page 3, in line 36, after "dealer" by inserting ", or employee or agent of the dealer,";

On page 5, in line 4, after "hydrants" by inserting "or fire hydrant caps"; in line 8, before the period by inserting ", in whole or in part"; in line 9, after "dealer" by inserting ", or employee or agent of the dealer,"; and the bill be passed as amended.

SB 238 be amended on page 1, in line 18, after the semicolon by inserting "or"; in line 20, by striking "; or (4) attending the unlawful"; in line 21, by striking all before the period; after line 25, by inserting the following:

"(c) Unlawful attendance of cockfighting is entering or remaining on the premises where the unlawful conduct of cockfighting is occurring.";

Also on page 1, after line 28, by inserting the following:

"(f) Unlawful attendance of cockfighting is a class B nonperson misdemeanor.";

And by relettering the remaining subsections accordingly; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 37** be amended on page 1, in line 30, after "rear" by inserting ", a slow moving vehicle emblem, as defined in K.S.A. 8-1717, and amendments thereto," and the bill be passed as amended.

Also, **SB 59** be amended on page $\hat{2}$, in line 7, by striking "Persons" and inserting the following:

"(1) From and after the effective date of this act and prior to June 30, 2009, a law enforcement officer shall issue a warning citation to anyone violating subsection (a) of K.S.A. 8-2503, and amendments thereto.

(2) On and after June 30, 2009, persons";

Also on page 2, in line 11, before the period, by inserting "\$25"; in line 19, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

SB 152 be amended on page 1, after line 43, by inserting the following:

"(8) Every public motor carrier or private motor carrier who operates on any street, highway, road, alley or parking lot in the state, a motor vehicle with a load of gravel which has the potential, due to the nature of the load to spill, drop, blow or otherwise escape, shall have a cover, which cover shall be securely fastened so as to prevent such cover or the load from spilling, dropping, blowing, or otherwise escaping or in any manner becoming a hazard to other users of such street, highway, road, alley or parking lot.

(9) Every public motor carrier or private motor carrier who operates a motor vehicle, including, but not limited to, trucks or trailers, with a gross vehicle weight rating of 26,000 pounds or less, with a load above the sidewalls of a truck bed or trailer which has the potential because of the nature of the load, to drop, leak, blow or otherwise escape from the motor vehicle shall be adequately strapped to fasten the load securely to the vehicle.";

On page 2, in line 6, by striking "Any" and inserting "Except as provided in paragraph (3), any"; in line 34, by striking "Persons" and inserting the following:

"(A) Except for motor vehicles under subparagraph (B), motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, except vehicles transporting hazard-ous materials which require placards, and except that such motor vehicles shall be subject to rules and regulations adopted pursuant to paragraphs (8) and (9) of K.S.A. 66-1,129, and amendments thereto.,

(B) Except vehicles transporting hazardous materials which require placards, motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work and such tools, property or material are being transported to or from an active construction site located within a radius of 25 miles of the principal place of business of the

motor carrier, except that such motor vehicles shall be subject to rules and regulations adopted pursuant to paragraphs (8) and (9) of K.S.A. 66-1,129, and amendments thereto.

(4) persons";

And the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Umbarger the following report was adopted:

Recommended, SB 83, SB 159, SB 183 be passed.

SB 53, SB 64, SB 72, SB 79, SB 173, SB 200 be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee recommended SB 103 be passed.

A motion by Senator Haley to amend **SB 103** failed and the following amendment was rejected: on page 3, after line 17, by inserting the following:

"Sec. 4. K.S.A. 25-2425 is hereby amended to read as follows: 25-2425. (a) Voting machine fraud is: $\frac{(a)}{(1)}$ Being in unlawful or unauthorized possession of a voting machine key.

(b) (2) Intentionally tampering with, altering, disarranging, defacing, impairing or destroying any voting machine, automatic ballot, voting machine label or register or record made by a voting machine.

(b) For the purposes of this section:

(1) "Ballot" means a paper ballot on which candidates' names or questions are printed and which:

(A) Is designed to receive opaque marks which can be detected by optical scanning equipment; and

(B) which is capable of being counted manually.

"Ballot" includes an electronic display or printed document containing the offices and questions on which voters in a specified voting area are eligible to vote.

(2) "Counting location" means the location in the county selected by the county election officer for the automatic processing or counting, or both, of ballots.

(3) "Direct recording electronic system" means a system that records votes by means of a ballot display provided with mechanical or electro-optical components that can be activated by the voter, that processes data by means of a computer program, that records voting data and ballot images in memory components, that produces a tabulation of the voting data stored in a removable memory component and as printed copy, and that may also provide a means for transmitting individual ballots or vote totals to a central location for consolidating and reporting results from precincts at the central location.

(4) "Electronic or electromechanical voting system" means a system of casting votes by use of marking devices and tabulating ballots employing automatic tabulating equipment or data processing equipment including a direct recording electronic system.

(5) "Voting machine" means any device for the collection of votes which has been approved and certified by the secretary of state pursuant to K.S.A. 2008 Supp. 25-4404 and amendments thereto.

(c) Voting machine fraud is a severity level 10, nonperson felony.";

And by renumbering the remaining sections accordingly;

Also on page 3, in line 18, after "K.S.A." by inserting "25-2425 and K.S.A.";

In the title, in line 9, by striking "relating to certain primary elections;"; in line 10, after "K.S.A." by inserting "25-2425 and K.S.A."

A second motion by Senator Haley to amend **SB 103** failed and the following amendment was rejected: on page 3, after line 17, by inserting the following:

"New Sec. 4. (a) No funds received by the secretary of state from any source whatsoever shall be used for the initial purchase, upgrade, retrofit or equipping of any electronic or computerized voting machine or direct recording voting system, or any equipment related thereto, unless such electronic or computerized voting machine or direct recording voting system includes or is equipped with an accessible voter verified paper audit trail as such term is defined in subsection (l) of K.S.A. 2008 Supp. 25-4406 and amendments thereto.

(b) The provisions of this section are a part of and supplemental to the electronic and electromechanical voting systems act.

Sec. 5. K.S.A. 2008 Supp. 25-4406 is hereby amended to read as follows: 25-4406. Electronic or electromechanical voting systems approved by the secretary of state:

(a) Shall provide for voting for the candidates for nomination or election of all political parties officially recognized pursuant to K.S.A. 25-302a, and amendments thereto;

(b) shall permit a voter to vote for any independent candidate for any office;

(c) shall provide for voting on constitutional amendments or other questions submitted;

(d) shall be so constructed that, as to primaries where candidates are nominated by political parties, the voter can vote only for the candidates for whom the voter is qualified to vote according to articles 2 and 33 of chapter 25 of the Kansas Statutes Annotated and amendments thereto;

(e) shall afford the voter an opportunity to vote for any or all candidates for an office for whom the voter is by law entitled to vote and no more, and at the same time shall prevent the voter from voting for the same candidate twice for the same office;

(f) shall be so constructed that in presidential elections the presidential electors of any political party may be voted for by one action;

(g) shall provide for "write-in" votes;

(h) shall provide for voting in absolute secrecy, except as to persons who request assistance due to temporary illness or disability or a lack of proficiency in reading the English language;

(i) shall reject all votes for an office or upon a question submitted when the voter has cast more votes for such office or upon such question than the voter is entitled to cast;

(j) shall provide for instruction of voters on the operation of voting machines, illustrating the manner of voting by the use of such systems. The instruction may include printed materials or demonstration by election board workers; and

(k) shall meet the requirements of the help America vote act of 2002 and other federal statutes and regulations governing voting equipment.

(l) (1) No electronic or computerized voting machine shall be approved for use in this state unless such electronic voting machine provides for a paper record of each electronically generated ballot that can be:

(A) Reviewed and corrected by the voter at the time the vote is cast; and

(B) used for a recount of the votes cast at an election in which electronically generated ballots are used.

(2) (A) On and after January 1, 2010, no direct recording voting system shall be used in this state unless such voting system has an accessible voter verified paper audit trail.

(B) For the purposes of this provision, "accessible voter verified paper audit trail" means a component of an electronic or computerized voting machine that prints a contemporaneous paper record copy of each electronic ballot and allows each voter to confirm such voter's selections before the voter casts such voter's ballot.";

And by renumbering the remaining sections accordingly;

Also on page 3, in line 18, after "25-2108a" by inserting ", 25-4406";

In the title, in line 10, after "25-2108a" by inserting ", 25-4406"

SB 119 be amended by motion of Senator Holland on page 7, in line 1, before the period, by inserting "or when the project bonds or pay-as-you-go costs have been paid" and **SB 119** be passed as amended.

A motion by Senator Lee to amend **SB 119** failed and the following amendment was rejected on page 1, by striking all in lines 29 and 30;

And by relettering subsections accordingly;

On page 4, in line 25, by striking "a"; by striking all in line 26; in line 27, by striking all before "seeking"; in line 28, by striking ", or both"; by striking all in lines 35 and 36; in line 37, by striking "(6)" and inserting "(5)"; in line 38, by striking "(7)" and inserting "(6)";

On page 5, by striking all in lines 18 and 19;

And by renumbering paragraphs accordingly;

Also on page 5, in line 29, by striking all after the comma where it appears for the first time; in line 37, by striking all after "assessment"; in line 38, by striking all before the period;

On page 6, by striking all in lines 28 through 43;

On page 7, by striking all in lines 1 through 43;

And by renumbering sections accordingly;

On page 8, in line 9, by striking "11" and inserting "10"; by striking all in lines 19 through 21; in line 22, by striking "(d)" and inserting "(c)"; in line 24, by striking "11" and inserting "10"; in line 29, by striking all after the period; by striking all in line 30; in line 31, by striking all before "assessments" and inserting "Special"; in line 39, by striking all after the period; by striking all before "assessments" and inserting "Special"; in line 39, by striking all after the period; by striking all in line 40; in line 41, by striking all before "Upon";

On page 9, in line 7, by striking "8" and inserting "7"; in line 11, by striking "8" and inserting "7"; in line 16, by striking "8" and inserting "7"

A motion by Senator Abrams to amend **SB 119** failed and the following amendment was rejected on page 8, in line 12, by striking "The" and inserting "(a) Except as provided in subsection (b), the"; in line 14, by striking "(a)" and inserting "(1)"; in line 17, by striking "(b)" and inserting "(2)"; in line 19, by striking "(c)" and inserting "(3)"; in line 22, by striking "(d)" and inserting "(4)"; in line 25, by striking "(e)" and inserting "(5)"; after line 27, by inserting:

"(b) At least a minimum of 50% of the funds expended on a project authorized under this act shall be derived from either ad valorem taxes or special assessments, or a combination thereof, assessed on property located within the district."

SB 249 be amended by motion of Senator V. Schmidt on page 2, in line 3, preceding "prescribed" by inserting "oral product"; in line 8, following the semicolon by inserting "(iii) is not a combination medication product containing two or more active ingredients; (iv) the substituted dosage form is not intended to be split;"; also in line 8, by striking "(iii)" and inserting "(v)"; in line 15, by striking "does not include" and inserting "includes" and **SB 249** be passed as amended.

The committee report on **SB 89** recommending a **Sub SB 89** be adopted, and the substitute bill be passed.

The committee recommended **SB 134** be amended by adoption of the committee amendments, and the bill be passed as amended.

A motion by Senator Pilcher-Cook to amend **SB 134** failed and the following amendment was rejected: on page 17, after line 10, by inserting the following:

"Sec. 14. (a) There is hereby established in the state treasury the judicial suitability fund. (b) The chief justice shall remit all moneys received under the provisions of this section to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, to be credited to the judicial suitability fund.

(c) The judicial suitability fund is created to accept donations from justices or judges.

(d) Moneys deposited in the judicial suitability fund shall be expended to meet the needs of the judicial branch.

(e) All expenditures from the judicial suitability fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved by the chief justice or by a person or persons designated by the chief justice.";

And by renumbering the remaining sections accordingly

SB 138 be amended by adoption of the committee amendments, and be further amended by motion of Senator Wysong on page 16, in line 10, by striking "either"; also in line 10, by striking "or subsection"; in line 11, by striking "(a)(1)(F)", and **SB 138** be passed as further amended.

SB 158 be amended by adoption of the committee amendments, and be further amended by motion of Senator Owens on page 2 in line 3 by striking "for restricted driving privileges" and by inserting "to be applied by the division of vehicles for additional administrative costs to implement restrictive driving privileges", and **SB 158** be passed as further amended.

Sub SB 117 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator V. Schmidt, on page 2, after line 22, by inserting:

"(d) (1) Whenever any vendor or other person provides any of the services defined in subsection (b), such vendor or other person shall keep and maintain a record showing the name and address of the person who purchased or requested such services and the amount

paid for such services. The records required by this subsection shall be kept for a period of one year after the date upon which payment was received for such services.

(2) Failure to keep and maintain the records required by this subsection is a class C misdemeanor." and $\mathbf{Sub} \ \mathbf{SB} \ \mathbf{117}$ be passed as amended.

Sub SB 48 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Petersen on page 7, in line 27, by striking "and"; in line 28, after "(10)" by inserting "appropriate uses of the wireless enhanced 911 grant fund; and

(11)", and Sub SB 48 be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Thursday, February 19, 2009.

Journal of the Senate

TWENTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, February 19, 2009—10:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Too often we discover Legislators are maligned Too often by the people They expected to be kind.

No doubt there are occasions When some have said or done Things which they should not Have done to anyone.

When we happen to be the victim Of an unprovoked attack, What course are we to take? How should we react?

The apostle Paul told us To forgive them what they've done; Just as God's forgiven us, Forgive the guilty one.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to Committees as indicated: Assessment and Taxation: **HB 2172**. Commerce: **SR 1828**. Education: **HB 2001**. Judiciary: **HB 2099**. Public Health and Welfare: **HB 2221**. Transportation: **HB 2023**. Utilities: **HB 2115**.

MESSAGE FROM THE HOUSE

Announcing passage of HB 2002; Sub HB 2050; HB 2060, HB 2079, HB 2207, HB 2232, HB 2233, HB 2236, HB 2250, HB 2260.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2002; Sub HB 2050; HB 2060, HB 2079, HB 2207, HB 2232, HB 2233, HB 2236, HB 2250, HB 2260 were thereupon introduced and read by title.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

Sub SB 48, An act concerning telecommunications; relating to enhanced wireless 911 service; concerning certain fees and disposition thereof; relating to audits of certain systems; establishing the joint committee on enhanced and next generation 911; definitions; amending K.S.A. 2008 Supp. 12-5322, 12-5323, 12-5334, 12-5338 and 12-5361 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The substitute bill passed, as amended.

SB 53, An act concerning cereal malt beverages; relating to discretion by cities in granting and suspending or revoking a retailer's license; amending K.S.A. 2008 Supp. 41-2703 and 41-2708 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 64, An act concerning the Kansas water appropriation act; amending K.S.A. 82a-705, 82a-707 and 82a-709 and K.S.A. 2008 Supp. 82a-701 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 72, An act concerning credit unions; pertaining to membership of a credit union; amending K.S.A. 2008 Supp. 17-2205 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 79, An act concerning elections; pertaining to filing deadlines for candidates; amending K.S.A. 25-205 and 25-4004 and repealing the existing sections, was considered on final action. On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Hensley, Holland, Huelskamp, Kelly, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Faust-Goudeau, Francisco, Haley, Kultala, Lee.

The bill passed, as amended.

SB 83, An act re-establishing the Kansas autism task force; relating to the powers and duties thereof; repealing K.S.A. 2008 Supp. 46-1208d, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

Sub SB 89, An act concerning public records; relating to certain records not required to be open; amending K.S.A. 2008 Supp. 45-221 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The substitute bill passed.

SB 103, An act concerning elections; relating to certain primary elections; amending K.S.A. 2008 Supp. 25-2021, 25-2108a and 71-1415 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 36, Nays 4, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Huelskamp, Ostmeyer, Pyle.

The bill passed.

Sub SB 117, An act concerning campaign finance; dealing with the crime of corrupt political advertising; amending K.S.A. 2008 Supp. 25-4156 and repealing the existing section; also repealing K.S.A. 2008 Supp. 25-4156a, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The substitute bill passed, as amended.

SB 119, An act enacting the community improvement district act, was considered on final action.

On roll call, the vote was: Yeas 30, Nays 10, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lynn, Marshall, Masterson, McGinn, Mor-

ris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Apple, Francisco, Huelskamp, Lee, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Taddiken.

The bill passed, as amended.

SB 134, An act concerning court fees and costs; amending K.S.A. 2008 Supp. 8-2107, 8-2110, 23-108a, 28-170, 28-172a, 28-177, 38-2215, 38-2314, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 38-1511 and 38-1613, was considered on final action.

On roll call, the vote was: Yeas 21, Nays 19, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Brungardt, Donovan, Emler, Francisco, Hensley, Kelly, Kultala, Lynn, Marshall, McGinn, Morris, Owens, Reitz, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Brownlee, Bruce, Colyer, Faust-Goudeau, Haley, Holland, Huelskamp, Kelsey, Lee, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Steineger, Taddiken, Wagle.

The bill passed, as amended.

EXPLANATION OF VOTE

It is my sincerest belief that the people of Kansas have entrusted to the legislative branch the exclusive power to appropriate the people's money.

Senate Bill 134 represents an attempt to diminish and erode this body's authority by permitting the judicial branch to raise and appropriate state funds as it sees fit.

Rather than forfeit our responsibilities, this body should make the conscious and necessary decision to properly fund the third branch of government at such a level as to allow for justice to be realized by our constituents.

The appropriate remedy for a decrease made to the court's budget from SGF dollars should be a supplementation by docket fee funds set at a level the legislature alone sees fit. —TERRY BRUCE

Senators Abrams, Brownlee, Colyer, Huelskamp, Kelsey, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Taddiken and Wagle request the record to show they concur with the "Explanation of Vote" offered by Senator Bruce on **SB 134**.

MR. PRESIDENT: I vote yes on **SB 134.** It is wrong for us in the legislature to treat a coequal branch of government as just another "agency." This is about a separation of powers. When we as the Legislative Branch fail to adequately fund another branch we put on the backs of that branch's workers our failure, thereby rendering them unable to perform the vital function of a co-equal branch and deprive the citizens of our state access on a timely basis to judicial redress.

The "Emergency Surcharge" sought by the Judicial Branch is *required* and for the Legislative Branch to continue to revisit its disagreement with the court over the "School finance formula" decision is just wrong! This is not about teaching the court a civics lesson. A vote against **SB 134** would be a more egregious violation of the constitutional separation of powers than any accusations directed against the courts in the school finance debate. Mr. President, I vote yes.—THOMAS C. OWENS

Senators Franciso, Kelly, McGinn, Schodorf request the record to show they concur with the "Explanation of Vote" offered by Senator Owens on **SB 134.**

SB 138, An act concerning tax increment financing; regarding bond revenue sources; amending K.S.A. 2008 Supp. 12-17,166, 12-17,175, 79-3620 and 79-3620b and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, PilcherCook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 158, An act concerning driver's licenses; relating to restrictions for certain persons; amending K.S.A. 2008 Supp. 8-2110 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 159, An act concerning tobacco; relating to the enforcement of the laws regarding the sale of cigarettes; amending K.S.A. 50-6a04 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 173, An act relating to the state health care benefits program; concerning certain retired officers and employees; amending K.S.A. 2008 Supp. 75-6501 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 31, Nays 9, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Marshall, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Brownlee, Bruce, Huelskamp, Lynn, Masterson, Ostmeyer, Pilcher-Cook, Pyle.

The bill passed, as amended.

SB 183, An act concerning solid waste; relating to management plans; amending K.S.A. 2008 Supp. 65-3410 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Pilcher-Cook, Pyle.

The bill passed.

SB 200, An act concerning board of healing arts; relating to regulations of certain allied health professionals; amending K.S.A. 65-2006, 65-2014, 65-28a01, 65-28a05, 65-5401, 65-5501, 65-7201 and 65-7204 and K.S.A. 2008 Supp. 65-2910, 65-2912, 65-2922, 65-5410, 65-5510, 65-6901, 65-7208, 65-7301 and 65-7313 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala,

Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 249, An act concerning pharmacists; relating to substitution of drug product; amending K.S.A. 2008 Supp. 65-1637 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Brownlee introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1829-

A RESOLUTION congratulating and recognizing Katie Weil and Audrey Baker as recipients of the 2009 Horizon Award.

WHEREAS, Katie Weil and Audrey Baker are both recipients of the 2009 Horizon Award for first-year teachers; and

WHEREAS, The Horizon Award, sponsored by the Kansas Department of Education, recognizes exemplary first-year teachers who perform in a way that distinguishes them as outstanding; and

WHEREAS, Katie Weil, Spanish teacher at Gardner Edgerton High School, obtained her Bachelor of Science degree in Secondary Education from Pittsburg State University, where she maintained a 4.0 grade point average and was a member of the Honors College. While attending PSU, Katie earned numerous academic honors including a Kansas World Language Association VIP and a Meritorious Achievement in Spanish. She was also a member of the Kansas World Language Association and the Spanish National Honor Society; and

WHEREAS, Audrey Baker, a fifth grade teacher at Pioneer Ridge Middle School, received her Bachelor of Science degree in Elementary Education from Kansas State University, along with an endorsement in English as a Second Language. While attending Kansas State, Audrey completed additional teacher training at several area elementary schools. Her academic honors include National Society of Collegiate Scholars Honor Society and the KSU Dean's List as well as being a Blue Key and Golden Key invitee; and

WHEREAS, Katie and Audrey were notified of their awards on January 7th, when each received a surprise telephone call from Kansas Commissioner of Education, Dr. Alexa Posny, who recognized them for their tireless work in their classrooms; and

WHEREAS, The teaching excellence and dedication that Katie Weil and Audrey Baker provide to their students makes them invaluable to the Gardner-Edgerton School District and Kansas as a whole: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize and congratulate Katie Weil and Audrey Baker for each receiving a Horizon Award and that we thank them for the excellent level of instruction they provide for their students; and

Be it further resolved: That the Secretary of the Senate be directed to provide five enrolled copies of this resolution to Senator Brownlee.

On emergency motion of Senator Brownlee SR 1829 was adopted unanimously.

Katie Weil and Audrey Baker were guests and were honored with a standing ovation.

Senator Brownlee introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1830-

A RESOLUTION congratulating and commending Dr. Suzanne Blair for earning the 2008 American Star of Teaching award for Kansas.

WHEREAS, On October 1, 2008, Dr. Suzanne Blair was presented the 2008 American Star of Teaching award in a surprise assembly at Gardner Edgerton High School; and

WHEREAS, This assembly took Dr. Blair by complete surprise when she was presented with the award by United States Department of Education Region VII Representative Dr. Mary Davidson Cohen with U.S. Congressman Dennis Moore, Kansas Representative Mike Kiegerl, Kansas Senator Karin Brownlee and Gardner Mayor Carol Lehman in attendance to honor Dr. Blair's achievement; and

WHEREAS, Dr. Blair also received letters of congratulations recognizing her outstanding contributions from Governor Kathleen Sebelius and U.S. Senator Pat Roberts; and

WHEREAS, Dr. Suzanne Blair has been teaching in the Gardner-Edgerton District for 11 years, transferring from Wheatridge Middle School to Gardner Edgerton High School in Fall, 2006; and

WHEREAS, Dr. Blair teaches Advanced Placement Calculus and Statistics courses as well as Informal Geometry and Algebra I and served as a contributing advisor to the National Engineering Design Challenge team at Gardner Edgerton High School, which won the national championship; and

WHEREAS, Dr. Blair holds Bachelors, Masters and Doctoral degrees from the University of Kansas; and

WHEREAS, Nearly 4,000 teachers nationwide were nominated for the American Stars of Teaching award and only one teacher is chosen from each state; and

WHEREAS, Through the American Stars of Teaching program, now in its fifth year, the United States Department of Education recognizes exemplary teachers who are raising student achievement and using innovative classroom strategies to help meet the goals of the No Child Left Behind Act; and

WHEREAS, The 2008 American Stars represent thousands of teachers across the country who are making a difference in children's lives, regardless of the challenges they face; and

WHEREAS, Dr. Suzanne Blair has been an outstanding middle school and high school math teacher for many years in the Gardner-Edgerton School District and her ability to simplify complex subjects not only enables her students to understand difficult material, but to excel: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Dr. Suzanne Blair for earning the 2008 American Star of Teaching award for Kansas and thank her for the inspiration and guidance she has provided for her students; and

Be it further resolved: That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator Brownlee.

On emergency motion of Senator Brownlee SR 1830 was adopted unanimously.

Dr. Suzanne Blair was introduced and honored with a standing ovation.

COMMITTEE OF THE WHOLE

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

On motion of Senator Bruce the following report was adopted:

SB 39, SB 87 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 142 be amended by adoption of the committee amendments, and be further amended by motion of Senator Petersen on page 9, in line 9 by striking "Fines" and inserting "(1) Except as provided in paragraph (2),"; after line 17, by inserting the following:

"(2) The provisions of paragraph (1) shall not apply to convictions for a traffic violation of exceeding maximum speed limit or speeding in locally posted zone which is less than 11 miles per hour over the speed limit.", and **SB 142** be passed as further amended.

A motion by Senator Haley to amend **SB 142** failed and the following amendment was rejected: on page 10, after line 10, by inserting the following:

"Sec. 6. K.S.A. 68-2004 is hereby amended to read as follows: 68-2004. (a) The authority is hereby authorized and empowered to:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) adopt an official seal and alter the same at pleasure;

(3) maintain an office at such place or places within the state as it may designate;

(4) sue and be sued in its own name, plead and be impleaded;

(5) determine the location, subject to the approval of the secretary of transportation, of each turnpike project financed under the provisions of this act, determine its design and the materials of construction, and construct, maintain, repair and operate the same;

(6) issue turnpike revenue bonds of the authority for any of its corporate purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act;

(7) fix and revise from time to time and charge and collect tolls for transit over each turnpike project constructed by it;

(8) adopt rules and regulations for the use of any such turnpike project, and adopt rules and regulations for traffic control on such project;

(9) acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

(10) designate the locations, and establish, limit and control such points of ingress to and egress from each turnpike project as may be necessary or desirable in the judgment of the authority to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(11) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

(12) employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

(13) receive and accept from any federal agency grants for or in aid of the construction of any turnpike project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made; and

 $(\overline{14})$ do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

(b) In addition to the tolls charged and collected under paragraph (7) of subsection (a), the authority is hereby allowed to develop and implement a system of tolls based on the average speed driven by a person using the turnpike project.

(b) (c) Violation of any of the rules and regulations adopted under this section shall be unlawful and subject to the penalties contained in K.S.A. 8-2116 and amendments thereto.";

And by renumbering the remaining sections accordingly; Also on page 10, in line 11, after "K.S.A." by inserting "68-2004 and K.S.A."; also in line 11 by striking "is" an inserting "are";

On page 1, in the title, in line 12, after the semicolon, by inserting "relating to the Kansas turnpike authority; concerning tolls;"; also in line 12, after "K.S.A." by inserting "68-2004 and K.S.A.", in line 13, by striking "section" and inserting "sections"

SB 160 be amended by adoption of the committee amendments, and the bill be passed as amended.

A motion by Senator Brownlee to amend **SB 160** failed and the following amendment was rejected: on page 1, by striking all in lines 15 through 43;

On page 2, by striking all in lines 1 through 9 and inserting the following:

"Section 1. K.S.A. 44-1201 is hereby amended to read as follows: 44-1201. On and after January 1, 1978; K.S.A. 44-1201, 44-1202 and 44-1204 to 44-1213, inclusive, and amendments thereto, shall be known and may be cited as "the minimum wage and maximum hours law."

Sec. 2. K.S.A. 2008 Supp. 44-1202 is hereby amended to read as follows: 44-1202. As used in K.S.A. 44-1201 to 44-1213, inclusive, and amendments thereto the maximum hours *law*, unless the context otherwise requires:

(a) "Secretary" means the secretary of labor.

(b) "Wage" means compensation due to an employee by reason of the employee's employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such allowances as may be permitted by regulations of the secretary under K.S.A. 44-1207 and amendments thereto.

(c) "Employ" means to suffer or permit to work.

(d) "Employer" means any individual, partnership, association, corporation, business trust or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include any employer who is subject to the provisions of the fair labor standards act of 1938 (29 U.S.C.A. § 201 et seq.) and any other acts amendatory thereof or supplemental thereto.

(e) "Employee" means any individual employed by an employer, but shall not include: (1) Any individual employed in agriculture; (2) any individual employed in domestic service in or about a private home; (3) any individual employed in a bona fide executive, administrative or professional capacity or in the capacity of an outside commission paid salesman, as such terms are defined and delimited by rules and regulations of the secretary; (4) any individual employed by the United States; (5) any individual who renders service gratuitously for a nonprofit organization as such terms are defined by rules and regulations of the secretary; (6) persons eighteen years of age or less employed for any purpose on an occasional or part-time basis; or (7) any individual employed by a unified school district in an executive, administrative or professional capacity, if the individual is engaged in such capacity 50% or more of the hours during which the individual is so employed.

(f) "Occupation" means employment in any service, trade, business, industry or other gainful employment.

(g) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron or customer for services rendered.

(h) "Occasional or part-time basis" means any employee working less than 40 hours per week and, for the purposes of this definition, students 18 years of age and under working between academic terms shall be considered part-time employees regardless of the number of hours worked.

Sec. 3. K.S.A. 44-1207 is hereby amended to read as follows: 44-1207. (a) On and after January 1, 1978; The secretary shall adopt such rules and regulations as are necessary to carry out the purposes and provisions of K.S.A. 44-1201 to 44-1213, inclusive; the maximum hours law to prevent the circumvention or evasion thereof and to safeguard the minimum wage and overtime rates established by this act. Such rules and regulations may include, but are not limited to, regulations defining and governing: Outside salesmen; bonuses; part-time rates; special pay for special or extra work; allowances as part of the wage rates applicable under this act for board, lodging and gratuities; other facilities or services furnished by employeers and used by employees; and other special items usual in a particular employer-employee relationship.

(b) On and after January 1, 1978, In order to prevent curtailment of opportunities for employment; and avoid undue hardship and safeguard the minimum wage rates under K.S.A. 44-1201 to 44-1213, inclusive the maximum hours law, the secretary also may adopt rules and regulations providing for: (1) The employment of handicapped workers or patient laborers at state institutions or hospitals at wages lower than the wage overtime rates applicable under K.S.A. 44-1201 to 44+1213, inclusive; the maximum hours law under permits and for such periods of time as specified therein; and (2) the employment of learners and apprentices at wages overtime rates lower than the wage overtime rates applicable under this act the maximum hours law, under permits and subject to such limitations on number, proportion, length of learning period, occupations and other conditions as the secretary may prescribe.

(c) On and after January 1, 1978, The secretary is authorized to appoint an advisory committee, composed of any equal number of not more than three (3) representatives of each of employers, employees and disinterested persons representing the general public, with whom the secretary may consult concerning the making and revising of the rules and regulations. Members of the advisory committee attending meetings of such committee, or attending a subcommittee meeting thereof authorized by the committee, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto.

Sec. 4. K.S.A. 44-1208 is hereby amended to read as follows: 44-1208. Any action of the secretary or the secretary's representatives in administering K.S.A. 44-1201 through 44-1213, and amendments thereto, the maximum hours law is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 5. K.S.A. 44-1209 is hereby amended to read as follows: 44-1209. On and after January 1, 1978, Every employer subject to any provision of K.S.A. 44-1201 to 44-1213, inclusive, the maximum hours law or of any rule and regulation adopted pursuant thereto, shall make and keep, for a period of not less than three (3) years, in or about the premises wherein any employee is employed, a record of the name and occupation of each employee, the rate of pay and the amount paid each pay period to each such employee, the hours worked each day and each work week by each such employee and such other information as the secretary may prescribe by rules and regulations as being necessary or appropriate for the enforcement of the provisions of K.S.A. 44-1201 to 44-1213, inclusive, the maximum hours law or of the rules and regulations adopted pursuant thereto. In lieu of the records required under this section, any employer who is covered under the provisions of the fair labor standards act of 1938, as amended (29 U.S.C.A. § 201 et seq.) and as further amended by the fair labor standards amendments of 1974 and any other acts amendatory thereof or supplemental thereto, may keep and maintain the records required under said the fair labor standards act of 1938, as amended. Such records shall be open for inspection or transcription by the secretary or the authorized representative of the secretary at any reasonable time.

Sec. 6 K.S.A. 44-1210 is hereby amended to read as follows: 44-1210. (a) On and after January 1, 1978, Any employer who is convicted of violating any provisions of K.S.A. 44-1201 to 44-1213, inclusive, the maximum hours law or falsifying any record pertaining thereto shall be fined not less than two hundred fifty dollars (\$250) \$250 nor more than one thousand dollars (\$1,000) \$1,000.

(b) On and after January 1, 1978, Any employer who discharges or in any other manner discriminates against any employee because such employee has made any complaint to his or her the employer or the secretary, or to the authorized representative of the secretary, that he or she the employee has not been paid wages in accordance with K.S.A. 44-1201 to 44-1213, inclusive the maximum hours law, or rules or regulations issued thereunder, or because such employee has caused to be instituted, or is about to cause to be instituted, any proceeding under or related to K.S.A. 44-1201 to 44-1213, inclusive, the maximum hours law or because such employee has testified or is about to testify in any such proceeding, shall be deemed in violation of K.S.A. 44-1201 to 44-1213, inclusive, the maximum hours law and, upon conviction therefor, shall be fined not less than two hundred fifty dollars (3250) \$250 nor more than one thousand dollars (\$1,000) \$1,000.

Sec. 7. K.S.A. 44-1211 is hereby amended to read as follows: 44-1211. (a) On and after January 1, 1978; Any employer who pays an employee less than the wages and overtime compensation to which such employee is entitled, under or by virtue of K.S.A. 44-1201 to 44-1213, inclusive; the maximum hours law shall be liable to such employee affected for the full amount of such wages and overtime compensation, less any amount actually paid to such employee by the employer, and for costs and such reasonable attorney fees as may be allowed by the court in an action for the recovery of such wages and overtime compensation. Any agreement between such employee and the employer to work for less than the applicable wage rate shall be no defense to such action. Such action may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of such employees.

(b) On and after January 1, 1978. At the written request of any employee who has been paid less than the amount to which he or she the employee is entitled under the provisions of this act the maximum hours law, the secretary may take an assignment of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and such reasonable attorneys' fees as may be allowed by the court. The secretary in case of suit shall have power to join various claimants against the same employer in one action.

Sec. 8. K.S.A. 44-1212 is hereby amended to read as follows: 44-1212. On and after January 1, 1978, Any standards relating to minimum wages, maximum hours, overtime compensation or other working conditions in effect under any other law of this state on the

effective date of this act which are more favorable to employees than those applicable hereunder shall not be deemed to be amended, rescinded or otherwise affected by K.S.A. 44-1201 to 44-1213, inclusive, the maximum hours law but shall continue in full force and effect until they are specifically superseded by standards more favorable to such employees by operation of or in accordance with K.S.A. 44-1201 to 44-1213, inclusive, the maximum hours law or rules and regulations adopted hereunder.

Sec. 9. K.S.A. 44-1213 is hereby amended to read as follows: 44-1213. Nothing in K.S.A. 44-1201 to 44-1213, inclusive, the maximum hours law shall be deemed to interfere with, impede or in any way diminish the right of employees to bargain collectively with their employers, through representatives of their own choosing, in order to establish wages, *over-time* or other conditions of work in excess of the applicable minimum requirements of K.S.A. 44-1201 to 44-1213, inclusive the maximum hours law.

Sec. 10. K.S.A. 44-1201, 44-1203, 44-1207, 44-1208, 44-1209, 44-1210, 44-1211, 44-1212 and 44-1213 and K.S.A. 2008 Supp. 44-1202 are hereby repealed.";

On page 1, in the title, by striking all in lines 11 and 12 and inserting the following:

"AN ACT concerning the minimum wage and maximum hours law; repealing the minimum wage provisions; amending K.S.A. 44-1201, 44-1207, 44-1208, 44-1209, 44-1210, 44-1211, 44-1212 and 44-1213 and K.S.A. 2008 Supp. 44-1202 and repealing the existing sections; also repealing K.S.A. 44-1203."

The committee rose and reported progress. (See Committee of the Whole Afternoon Session).

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

AFTERNOON SESSION

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 282, An act concerning the court of appeals; amending K.S.A. 2008 Supp. 20-3002 and repealing the existing section, by Committee on Ways and Means.

SB 283, An act concerning criminal procedure; relating to community corrections; amending K.S.A. 2008 Supp. 75-5291 and repealing the existing section, by Committee on Ways and Means.

CHANGE OF REFERENCE

The President withdrew **SB 149** from the Committee on **Education**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew SB 186, SB 193 from the Committee on Ethics and Elections, and referred the bills to the Committee on Ways and Means.

The President withdrew **SB 198** from the Committee on **Local Government**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 153** from the Committee on **Transportation**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 185** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Agriculture**.

The President withdrew SB 147, SB 220 from the Committee on Ways and Means, and rereferred the bills to the Committee on Public Health and Welfare.

The President withdrew SB 177, SB 242, SB 243, SB 244, SB 255 from the Committee on Ways and Means, and rereferred the bills to the Committee on Assessment and Taxation.

The President withdrew **SB 241** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Financial Institutions and Insurance**.

REMOVE FROM CONSENT CALENDAR

An objection having been made to **SB 49** appearing on the Consent Calendar, the President directed the bill be removed and placed on the calendar under the heading of General Orders.

The President withdrew **SB 49** from the calendar under the heading of General Orders and referred the bill to the Committee on **Ways and Means.**

REPORT ON ENGROSSED BILLS

SB 148, SB 168, SB 219 reported correctly engrossed February 19, 2009.

REPORT ON ENROLLED BILLS

SR 1819, SR 1825, SR 1826, SR 1827 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 19, 2009.

COMMITTEE OF THE WHOLE

The Senate returned to the Committee of the Whole for consideration of bills under the heading of General Orders with Senator Bruce in the Chair.

On the motion of Senator Bruce the report for the morning and the following afternoon sessions were adopted.

Recommended SB 69, SB 120, SB 154, SB162, SB 240 be passed.

SB 37, SB 84, SB 105, SB 163, SB 175, SB 228, SB 237, be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 9 be amended by adoption of the committee amendments and be further amended by motion of Senator Schodorf on page 5, in line 4, by striking "has the meaning ascribed thereto by"; in line 5, by striking all before the period and inserting "means any funds received by a state educational institution from any source other than the state of Kansas or any agency thereof";

On page 7, in line 31, by striking "city" where it appears the first time, and inserting "county", and **SB 9** be passed as further amended.

SB 59 be amended by adoption of the committee amendments and be further amended by motion of Senator Umbarger on page 2, in line 17 by striking "\$60 including"; in line 18, by striking "court costs", and **SB 59** be passed as further amended.

SB 152 be amended by adoption of the committee amendments and be further amended by motion of Senator Apple on page 2, by striking all in lines 2 through 16; in line 22, by striking "Except as provided in paragraph (3), any" and inserting "Any";

On page 3, in line 14, by striking all after "placards"; by striking all in line 15; in line 16, by striking all before the period; in line 24, by striking all after "carrier"; by striking all in line 25; in line 26, by striking all before the period; after line 26 by inserting the following:

"(C) (1) Such motor vehicles described in paragraphs (A) and (B) which are carrying a load shall be required to have a cover which shall be securely fastened to prevent the cover or load from spilling or becoming a hazard to other motor vehicle users.

(2) Such motor vehicles described in paragraphs (A) and (B) which are carrying a load above the sidewalls of a truck bed or trailer shall be adequately strapped to securely fasten the load to the vehicle.", and **SB 152** be passed as further amended.

SB 203 be amended by adoption of the committee amendments and be further amended by motion of Senator V. Schmidt on page 2, in line 13, after the period by inserting "Such rules and regulations shall be promulgated on or before July 1, 2010.", and **SB 203** be passed as further amended.

SB 238 be amended by adoption of the committee amendments and be further amended by motion of Senator Taddiken on page 1, in line 37, by striking "bred,", and **SB 238** be passed as further amended.

A motion was made by Senator Haley to amend **SB 238** on page 1, after line 14, by inserting the following:

"New Section 1. (a) As used in this section:

(1) "Custodial interrogation" retains the meaning prescribed to it by the United States and Kansas Constitutions.

(2) "Place of detention" means a building under the control of a law enforcement unit, a courthouse holding facility for defendants in the custody of a jail or prison, a city or county jail or work release facility, a state prison, or a state security hospital or a facility operated by the department of social and rehabilitation services for the purposes provided for under K.S.A. 59-29a02 et seq., and amendments thereto.

(3) "Video recording" means to capture the visual and audio components of an event in a manner that allows the event to be observed through that medium.

(b) (1) Effective July 1, 2009, except as provided in subsection (c), if a place of detention is equipped with one or more rooms capable of making a video recording, a video recording shall be made of a custodial interrogation conducted in such place of detention when the interrogation concerns an off-grid felony, a nondrug severity level 1 through 5 felony or a drug severity level 1 felony crime. The recording shall include the advice of rights. The recording shall not end until the interrogation is concluded. If the defendant elects to make or sign a written statement during the course of a custodial interrogation, the making and signing of the writing shall be recorded.

(2) Effective July 1, 2010, except as provided in subsection (c), a video recording shall be made of a custodial interrogation conducted in any place of detention when the interrogation concerns an off-grid felony, a nondrug severity level 1 through 5 felony or a drug severity level 1 felony crime. The recording shall include the advice of rights. The recording shall not end until the interrogation is concluded. If the defendant elects to make or sign a written statement during the course of a custodial interrogation, the making and signing of the writing shall be recorded.

(c) A video recording of a statement under subsection (b) is not required if the oral, written or sign language statement was made:

(1) During an interrogation that was not recorded as required by subsection (b) because video recording was not feasible;

(2) spontaneously and not in response to a question;

(3) voluntarily, whether or not the result of an interrogation, and the statement has a bearing on the credibility of the accused as a witness;

(4) after questioning that is routinely asked during the processing of the arrest of a suspect;(5) in an interrogation outside the state of Kansas;

(6) at a time when the interrogators are unaware that an offense covered by subsection (b) has occurred; or

(7) at a time when the person being interrogated is not a suspect for the offense to which the statement relates while the person is being interrogated for an offense other than an offense specified in subsection (b).

(d) If the court finds by a preponderance of the evidence that the defendant was subjected to an interrogation in violation of this section, the defendant shall be entitled to a jury instruction on the failure to record the interrogation. If the defendant requests such an instruction, the court shall instruct the jury that it is the law of Kansas to make a video recording of a custodial interrogation of a person suspected of committing the offense charged and because of the absence of any recording of the interrogation in the case before them, they should weigh evidence of the defendant's alleged statement with great caution and care.

(e) Every video recording required under this section shall be preserved until the defendant's conviction for an offense relating to the statement is final and all direct and habeas corpus appeals are exhausted, or until the prosecution of offenses related to the recorded statement is barred by law, whichever occurs later.

(f) Every video recording of any statement as required by this section shall be confidential and exempt from the Kansas open records act in accordance with K.S.A. 45-221, and amendments thereto.";

And by renumbering the remaining sections accordingly;

In the title, in line 10, by striking "and punishment" and inserting ", punishment and criminal procedure"; also in line 10, after "to" by inserting "evidence and videotaping of felony interrogations;"

The Chair ruled the amendment not to be germane to the bill.

Sub SB 58 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Apple, "On page 8, in line 9, before "its" by inserting "January 1, 2010, and"; in line 10, by striking "Kansas register" and inserting "statute book", and **Sub SB 58** be passed as amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ³/₃ constitutional majority, and SB 9, SB 37, SB 39; Sub SB 58; SB 59, SB 69, SB 84, SB 87, SB 105, SB 120, SB 142, SB 152, SB 154, SB 160, SB 162, SB 163, SB 175, SB 203, SB 228, SB 237, SB 238, SB 240 were advanced to Final Action and roll call.

SB 9, An act concerning state educational institutions; relating to construction improvement projects.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 37, An act regulating traffic; concerning golf carts; amending K.S.A. 2008 Supp. 8-126, 8-128, 8-1486 and 8-2118 and repealing the existing sections

On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Donovan, Pilcher-Cook.

Present and Passing: Wysong.

The bill passed, as amended.

SB 39, An act concerning certain municipalities; relating to the investment of public moneys; amending K.S.A. 2008 Supp. 12-1677b and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

Sub SB 58, An act concerning utilities; relating to the underground utility damage prevention act; definitions; amending K.S.A. 66-1802, 66-1804, 66-1805 and 66-1806 and repealing the existing sections; also repealing K.S.A. 66-1802, as amended by section 5 of chapter 122 of the 2008 Session Laws of Kansas, 66-1805, as amended by section 6 of chapter 122 of the 2008 Session Laws of Kansas, 66-1806, as amended by section 7 of chapter 122 of the 2008 Session Laws of Kansas, 66-1806, as amended by section 8 of chapter 122 of the 2008 Session Laws of Kansas, section 9 of chapter 122 of the 2008 Session Laws of Kansas, section 9 of chapter 122 of the 2008 Session Laws of Kansas, section 9 of chapter 122 of the 2008 Session Laws of Kansas, section 9 of Session Laws of Kansas.

On roll call, the vote was: Yeas 34, Nays 5, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wysong.

Nays: Huelskamp, Marshall, Pilcher-Cook, Pyle, Vratil.

Present and Passing: Francisco.

The substitute bill passed, as amended.

SB 59, An act relating to motor vehicles; concerning the use of safety belts; amending K.S.A. 2008 Supp. 8-2503 and 8-2504 and repealing the existing sections.

On roll call, the vote was: Yeas 23, Nays 17, Present and Passing 0, Absent or Not Voting 0

Yeas: Apple, Barnett, Brownlee, Brungardt, Colver, Donovan, Emler, Francisco, Hensley, Holland, Kelly, Kultala, Lee, Lynn, McGinn, Morris, Owens, Reitz, Schmidt V, Schodorf, Umbarger, Vratil, Wysong.

Navs: Abrams, Bruce, Faust-Goudeau, Haley, Huelskamp, Kelsey, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Steineger, Taddiken, Teichman, Wagle.

The bill passed, as amended.

SB 69, An act concerning crime stoppers; establishing an advisory council; imposing certain fees; providing for certain grants; creating the Kansas crime stopper trust fund.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Brownlee, Huelskamp, Pilcher-Cook, Pyle, Steineger. The bill passed.

SB 84, An act concerning schools; relating to personal financial literacy courses; amending K.S.A. 2008 Supp. 72-7535 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colver, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 87, An act concerning public agencies; relating to disclosure of certain records; administrative procedure; judicial review; amending K.S.A. 77-501, 77-503, 77-511, 77-512, 77-513, 77-519, 77-520, 77-521, 77-523, 77-525, 77-528, 77-531, 77-532, 77-534, 77-537, 77-601, 77-612, 77-614, 77-617 and 77-621 and K.S.A. 2008 Supp. 45-221, 77-514, 77-527, 77-529, 77-549, 77-550, 77-551 and 77-603 and repealing the existing sections; also repealing K.S.A. 77-507, 77-507a and 77-605 and K.S.A. 2003 Supp. 77-514, as amended by section 39 of chapter 145 of the 2004 Session Laws of Kansas, and K.S.A. 77-551, as amended by section 43 of chapter 145 of the 2004 Session Laws of Kansas.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Schmidt D.

The bill passed, as amended.

SB 105, An act enacting the public adjusters licensing act.

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

Yeas: Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Masterson, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Bruce, Huelskamp, Marshall, Ostmeyer, Pilcher-Cook, Pyle.

The bill passed, as amended.

SB 120, An act concerning the Kansas investments in major projects and comprehensive training; relating to the secretary of commerce; authorizing the funding of certain economic development projects; amending K.S.A. 2008 Supp. 74-50,103 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 142, An act concerning transportation; relating to designation of certain highway segments as safety corridors by the secretary of transportation; establishing the traffic safety corridor fund; amending K.S.A. 2008 Supp. 8-2118 and repealing the existing section.

On roll call, the vote was: Yeas 18, Nays 22, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Kelsey, Kultala, Marshall, Morris, Petersen, Reitz, Schodorf, Teichman, Umbarger, Wysong.

Nays: Abrams, Brownlee, Bruce, Brungardt, Haley, Holland, Huelskamp, Kelly, Lee, Lynn, Masterson, McGinn, Ostmeyer, Owens, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Steineger, Taddiken, Vratil, Wagle.

A constitutional majority having failed to vote in favor of the bill, SB 142 did not pass.

SB 152, An act concerning motor carriers; relating to regulation thereof; amending K.S.A. 2008 Supp. 66-1,129 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Pyle.

The bill passed, as amended.

SB 154, An act concerning civil procedure; relating to habeas corpus; infectious disease; amending K.S.A. 60-1505 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 160, An act concerning the minimum wage and maximum hours law; amending K.S.A. 44-1203 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Masterson, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Colyer, Huelskamp, Lynn, Marshall, Ostmeyer, Pilcher-Cook, Pyle. The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: If you want to transfer income to the working poor, there are fairer and better ways to do it. The state minimum wage affects only a small number of Kansans mostly teenagers. A better way is the federal Earned Income Tax Credit which gives monthly payments to the neediest American families without concentrating the burden on just a few businesses. These issues are better addressed at the federal level.—JEFF COLYER

Senator Lynn requests the record to show she concurs with the "Explanation of Vote" offered by Senator Colver on SB 160.

MR. PRESIDENT: I vote yes on **Senate Bill 160** to bring Kansas' \$2.65 minimum wage in line with the federal minimum wage. This bill would provide true and immediate relief to the estimated 17,000 Kansans currently earning less than the federal minimum wage.

Kansans value work, but that value is not reflected in a state minimum wage that is the lowest in the nation, out of line with our neighboring states, and lower than rates in the US Territories of Guam, Puerto Rico and the Virgin Islands.

The time is right for the legislature to make this change because paying decent wages has positive economic benefits across the board: for the workers who can better provide food and shelter for themselves and their families, for the merchants who receive the dollars those workers spend, and for the employers who may save money through reduced employee turnover and a more productive workforce.

I am pleased that we are taking this significant step to protect and value our workers that is long overdue.—MARCI FRANCISCO

Senators Faust-Goudeau, Haley, Hensley, Kelly and Kultala request the record to show they concur with the "Explanation of Vote" offered by Senator Francisco on **SB 160**.

SB 162, An act concerning school districts; relating to disability history and awareness. On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 1, Absent or Not Voting 0.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Present and Passing: Abrams.

The bill passed.

SB 163, An act amending the consumer protection act; amending K.S.A. 50-624 and 50-626 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 175, An act concerning school districts; relating to the powers and duties thereof.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 203, An act concerning the secretary of agriculture; relating to powers and duties; amending K.S.A. 36-515 and K.S.A. 2008 Supp. 36-503, 36-510 and 74-598 and repealing the existing sections.

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

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Marshall.

The bill passed, as amended.

SB 228, An act concerning property tax; relating to exemptions; pertaining to motor vehicles leased for a period of at least one year and used for certain exempt purposes; amending K.S.A. 2008 Supp. 79-201 and 79-201a and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 237, An act concerning scrap metal; relating to regulation thereof; amending K.S.A. 2008 Supp. 50-6,109, 50-6,110, 50-6,111 and 50-6,112 and repealing the existing sections.

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

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Masterson, McGinn, Morris, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Huelskamp, Marshall, Ostmeyer, Pyle, Schmidt D, Steineger.

The bill passed, as amended.

SB 238, An act concerning crimes and punishments; relating to unlawful conduct of cockfighting; asset forfeiture; amending K.S.A. 21-4319 and K.S.A. 2008 Supp. 60-4104 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Faust-Goudeau, Haley.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: History of the Haley family as chronicled by my late uncle Alex Haley in "ROOTS", an America saga tells of my fore father son of a white farm owner and black slave, he was born a slave, considered a "property" of his father and the farm; merely % of a human being. This man, though a slave, became so proficient at the art of breeding and training gamecocks or "roosters" at fighting that throughout the state folks who heard of his extraordinary ability at winning cockfights called him, simply, "Chicken George". Chicken George had a winning record by all accounts that would put most professional sports franchises to shame. Before the NFL, the NBA, the NHL or MLB existed in this country, many Americans entertained themselves with the new archaic and definitely barbaric "sport" of "cockfighting." And Chicken George's father-master gave his son-slave money from the gambling; the "pot" the winnings that he earned in his craft. What did the slave-son do when he could? Gave this money back to his master-father in

What did the slave-son do when he could? Gave this money back to his master-father in order to buy his freedom; his liberty *first* and then the liberty and freedom of his *wife*. Now, no one in this Legislature has a greater affiliation with the enhancement of penalties for

extreme animal cruelty than David Haley. None of you nor anyone in the House can take that from my legacy in Kansas. But I vote "NO" today because the generations of freedom that my family has enjoyed in this country at largely in part to gamecock fighting, ironically.

Since David Haley is a product of a stable foundation generations old, Senator David Haley can not vote for a bill which outlaws that which long ago made me free. Most folks may call him "Chicken George" if he were alive today, I would have to call him "great-great-great-great grandpa." So symbolically, I VOTE "NO" on **SB 238**.—DAVID HALEY

SB 240, An act relating to mortgages; concerning the regulation thereof; amending K.S.A. 9-2201, 9-2202, 9-2207, 9-2212, 9-2216a, 9-2220, 16a-1-303, 16a-2-301, 16a-2-302, 16a-2-303, 16a-2-304, 16a-3-308, 16a-6-104, 16a-6-108, 16a-6-117, 16a-6-201 and 16a-6-203 and K.S.A. 2008 Supp. 9-2203, 9-2205, 9-2209, 9-2211 and 9-2216 and repealing the existing sections; also repealing K.S.A. 16a-6-413.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

On motion of Senator D. Schmidt the Senate adjourned until 9:00 a.m., Friday, February 20, 2009.

Journal of the Senate

TWENTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Friday, February 20, 2009—9:00 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with twenty-three senators present.

Senators Abrams, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Faust-Goudeau, Haley, Masterson, McGinn, Petersen, Pyle, V. Schmidt, Schodorf, Taddiken and Wysong were excused.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I have 70,000 constituents To serve them I am blest. Day in and day out, O God, Help me do my best.

I have 70,000 constituents, And I serve them day and night, But I really need your help, O God, To always do what's right.

I have 70,000 constituents, And my job I will fulfill. But what concerns me most, O God, I need help to do Your will!

I pray in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: HB 2079. Commerce: HB 2260. Education: HB 2002. Judiciary: SB 282, SB 283; HB 2060, HB 2207, HB 2232, HB 2233, HB 2236, HB 2250.

Natural Resources: Sub HB 2050.

CHANGE OF REFERENCE

The President withdrew **SB 149** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Education**.

The President withdrew **SB 186**, **SB 193** from the Committee on **Ways and Means**, and rereferred the bills to the Committee on **Ethics and Elections**.

The President withdrew **SB 198** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Local Government**. The President withdrew **SB 153** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Transportation**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS PAROLE BOARD

Paul Feleciano, Jr., Chairperson, Kansas Parole Board, submitted the Annual Report for the Fiscal Year 2008.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

REPORT ON ENROLLED BILLS

SCR 1601, SCR 1604 reported correctly enrolled, properly signed and presented to the Secretary of State on February 20, 2009.

On motion of Senator Vratil the Senate adjourned until 3:00 p.m., Tuesday, February 24, 2009.

Journal of the Senate

THIRTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS Tuesday, February 24, 2009—3:00 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-seven senators present. Senators Colyer, Huelskamp and Lynn were excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Our country is in trouble, That's easy enough to see; Big business is hurting And every employee.

Stocks are plunging downward, Almost in free fall. Savings disappearing: It affects us all.

I'm old enough to remember What they called the Great Depression. On everyone in America It made a big impression.

Unemployment reached Twenty-five per cent. Soup lines stood for blocks Seeking nourishment.

What brought it to an end? Some say Roosevelt. Others say it was World War II When recovery was felt.

Regardless of how bad it gets, Even when our trouble's large; We know that things will turn out right Because You're the One in charge!

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 284, An act concerning energy efficiency and conservation programs; relating to the state corporation commission and authorizing establishment of a third party administrator

program; establishing the third party administrator program fund, by Committee on Ways and Means.

SB 285, An act concerning the Kansas universal service fund; relating to KAN-ED funding; amending K.S.A. 2008 Supp. 66-2010 and repealing the existing section, by Committee on Ways and Means.

CHANGE OF REFERENCE

The President withdrew SB 49 from the Committee on Ways and Means, and rereferred the bill to the Committee on Financial Institutions and Insurance.

MESSAGE FROM THE HOUSE

Announcing passage of HB 2010, HB 2054, HB 2098, HB 2125, HB 2126, HB 2130, HB 2131, HB 2134, HB 2142; Sub HB 2143; HB 2152, HB 2155, HB 2157, HB 2158, HB 2162, HB 2164, HB 2165, HB 2171, HB 2188, HB 2195, HB 2197, HB 2201, HB 2214, HB 2219, HB 2222, HB 2258, HB 2265, HB 2267, HB 2270, HB 2292, HB 2297, HB 2308, HB 2321; Sub HB 2339.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2010, HB 2054, HB 2098, HB 2125, HB 2126, HB 2130, HB 2131, HB 2134, HB 2142; Sub HB 2143; HB 2152, HB 2155, HB 2157, HB 2158, HB 2162, HB 2164, HB 2165, HB 2171, HB 2188, HB 2195, HB 2197, HB 2201, HB 2214, HB 2219, HB 2222, HB 2258, HB 2265, HB 2267, HB 2270, HB 2292, HB 2297, HB 2308, HB 2321; Sub HB 2339 were thereupon introduced and read by title.

REPORT ON ENGROSSED BILLS

SB 9, SB 37, SB 39; Sub SB 48; SB 53; Sub SB 58; SB 59, SB 64, SB 72, SB 79, SB 84, SB 87, SB 105; Sub SB 117; SB 119, SB 134, SB 138, SB 152, SB 158, SB 160, SB 163, SB 173, SB 175, SB 200, SB 203, SB 228, SB 237, SB 238, SB 249 reported correctly engrossed February 20, 2009.

REPORT ON ENROLLED BILLS

SR 1829, SR 1830 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 24, 2009.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, February 25, 2009.

Journal of the Senate

THIRTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, February 25, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-nine senators present. Senator Wysong was excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Last Sunday was the 277th anniversary of the first president of our nation, George Washington.

I was so impressed with what President Calvin Coolidge said to the 69th Congress on February 22, 1927:

"Washington was the directing spirit without which there would have been no independence, no Union, no Constitution, and no Republic. His ways were the ways of truth. His influence grows. In wisdom of action, in purity of character he stands alone. We cannot yet estimate him. We can only indicate our reverence for him and thank the Divine Providence which sent him to serve and inspire his fellow men."

Lord, all I can do is to add my gratitude and I'm sure the gratitude of this Senate for the way You guided and inspired the man who came to be known as the Father of our Country.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 286, An act concerning wildlife; relating to destruction of prairie dogs by authorization of townships; repealing K.S.A. 80-1201, 80-1202, 80-1203, 80-1204, 80-1205, 80-1206, 80-1207 and 80-1208, by Committee on Federal and State Affairs.

SB 287, An act concerning wildlife; relating to prairie dog management, control and conservation; also repealing K.S.A. 80-1201, 80-1202, 80-1203, 80-1204, 80-1205, 80-1206, 80-1207 and 80-1208, by Committee on Federal and State Affairs.

SB 288, An act concerning insurance; providing coverage for colorectal cancer screening; amending K.S.A. 2008 Supp. 40-2,103 and 40-19c09 and repealing the existing sections, by Committee on Ways and Means.

SB 289. An act concerning crimes and punishments; relating to leaving the scene of a vehicle accident; amending K.S.A. 2008 Supp. 8-1602 and repealing the existing section, by Committee on Ways and Means.

SB 290, An act concerning school districts; relating to teachers and teachers' contracts; amending K.S.A. 2008 Supp. 72-5413 and repealing the existing section, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1610-

By Senators Taddiken, Abrams, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Teichman, Umbarger, Vratil and Wysong

A CONCURRENT RESOLUTION urging the Environmental Protection Agency to authorize the use of higher blends of ethanol in non-flex fuel vehicles.

WHEREAS, Kansas has supported the production and use of ethanol blends for over twenty years, but is approaching an ethanol blend "wall" which will curtail ethanol production in the state; and

WHEREAS, The United States Environmental Protection Agency has not yet approved the use of ethanol blends in excess of ten percent in non-flex fuel vehicles, although the EPA has the ability to approve the use of higher ethanol blends in such vehicles and nonflex fuel vehicles can run safely using blends in excess of E1O; and

WHEREAS, The 2007 Federal Energy Bill requires the increased use of ethanol, a requirement that could be addressed through the use of higher ethanol blends, such as blends up to E20 in non-flex fuel vehicles; and

WHEREAS, Numerous studies have shown favorable emissions data through the use of blends up to E20 in comparison with unleaded gasoline; and

WHEREAS, Authorizing the use of higher blends of ethanol in non-flex fuel vehicles will double or triple the use of American-grown ethanol; and

WHEREAS, Kansas will benefit significantly through the increased production of ethanol and related job creation, in addition to the benefit enjoyed by Kansas drivers and fuel consumers through the use of additional ethanol blends at lower cost and through greater fuel efficiency in some vehicles using ethanol blends; and

WHEREAS, Kansas, as well as the entire country, continues to strive for energy independence and increasing the use of ethanol and other biofuels is one more approach toward self-sufficiency: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That we strongly support and urge the prompt authorization and implementation by the United States Environmental Protection Agency, and other appropriate federal agencies, of the use of higher levels of ethanol blends in non-flex fuel vehicles; and

Be it further resolved: That the Secretary of State is directed to provide an enrolled copy of this resolution to the Administrator of the Environmental Protection Agency, each member of the Kansas Congressional Delegation and the secretary of the United States Department of Agriculture.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: HB 2321.

Commerce: HB 2142, HB 2270.

Education: HB 2197.

Federal and State Affairs: HB 2171, HB 2267, HB 2308; Sub HB 2339.

Financial Institutions & Insurance: HB 2054, HB 2214, HB 2292.

Judiciary: HB 2098, HB 2164, HB 2165, HB 2201.

Local Government: HB 2125, HB 2155, HB 2157, HB 2158.

Public Health and Welfare: HB 2010, HB 2162, HB 2297.

Transportation: HB 2130, HB 2131, HB 2134; Sub HB 2143; HB 2152, HB 2188, HB 2258

Utilities: SB 284; HB 2126.

Ways and Means: SB 285; HB 2195, HB 2219, HB 2222, HB 2265.

CHANGE OF REFERENCE

The President withdrew **HB 2158** from the Committee on **Local Government**, and referred the bill to the Committee on **Ethics and Elections**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Masterson introduced the following Senate resolution, which was read: SENATE RESOLUTION No. 1831—

A RESOLUTION congratulating and commending Emily Deaver

for being Miss Kansas 2008.

WHEREAS, On June 7, 2008, Emily Deaver was crowned Miss Kansas 2008 and represented Kansas in the 2009 Miss America pageant on January 24, 2009; and

WHEREAS, Emily Deaver is the daughter of two supportive and dedicated parents, Pastor Terry and Mrs. Karen Deaver; and

WHEREAS, Emily Deaver's talent for the competition was jazz vocal and piano; and

WHEREAS, As Miss Kansas, Emily Deaver's platform issue has been to develop age appropriate and honest approaches to create awareness about the urgency of drug and alcohol abuse and to work to change the attitudes and behaviors that put young people at risk for drug and alcohol abuse and addiction; and

WHEREAS, Miss Deaver has graciously traveled throughout Kansas as Miss Kansas and has visited schools all over the state, challenging many to refocus on the problems of alcohol and drug addiction; and

WHEREAS, Emily Deaver graduated from Augusta High School and currently attends Wichita State University where she is pursuing a degree in Jazz studies; and

WHEREAS, Some of Emily Deaver's scholastic achievements include Wichita State University Dean's List, National Honor Society and Augusta High School Diploma of Distinction and Honor Roll; and

WHEREAS, Emily Deaver has also taken on many leadership roles in her community, including conducting the Wichita State University jazz band, coaching little league soccer, being an FCA worship leader and teaching piano; and

WHEREAS, Governor Sebelius has appointed Emily Deaver to the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention; and

WHEREAS, The Augusta community, Butler county and all other Kansans take pride in the talents and accomplishments of Emily Deaver and wish her well as the reigning Miss Kansas: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate Emily Deaver for winning Miss Kansas 2008 and that we thank her for the work she continues to do across Kansas; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Masterson for presentation to Emily Deaver.

On emergency motion of Senator Masterson SR 1831 was adopted unanimously.

Senator Masterson introduced Emily Deaver and Senators joined him in honoring her with a standing ovation.

REPORTS OF STANDING COMMITTEES

Committee on **Financial Institutions and Insurance** recommends **SB 275** 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 OF THE WHOLE

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

On motion of Senator V. Schmidt the following report was adopted:

Recommended: SB 74, SB 115, SB 215 be passed.

SB 107, SB 225 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 178 be amended by adoption of the committee amendments, be further amended by motion of Senator Ostmeyer on page 1, in line 21, after the period by inserting "Such rules and regulations shall be adopted on or before July 1, 2010.", and **SB 178** be passed as further amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, February 26, 2009.

Journal of the Senate

THIRTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, February 26, 2009—2:30 p.m.

The Senate was called to order by Vice President John Vratil. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I hear some people say that they don't understand the Bible. It's true that some portions of scripture are not as plain-spoken as others. But I would like to thank You, O God, for instructions that any adult and most children can understand. The book of James is one of those:

Everyone should be quick to listen, slow to speak and slow to become angry. James 1:19b

Religion that God our Father accepts as pure and faultless is this: to look after orphans and widows in their distress and to keep oneself from being polluted by the world. James 1:27

As the body without the spirit is dead, so faith without deeds is dead. James $2{:}26$

Out of the same mouth come praise and cursing. My brothers, this should not be. James $3{:}10$

When you ask, you do not receive, because you ask with wrong motives, that you may spend what you get on your own pleasures. James 4:3

Resist the devil and he will flee from you. Come near to God and He will come near to you. James 4:7b-8a

Anyone, then, who knows the good he ought to do and doesn't do it, sins. James 4:17.

These are just a few of the examples of how You speak clearly to our needs, O God. Help us all to pay attention!

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 291. An act concerning apportionment; relating to the redistricting process for reapportioning congressional and state legislative districts, by Committee on Federal and State Affairs.

SB 292, An act concerning civil procedure; relating to remote claim liens on commercial property; amending K.S.A. 60-1103, 60-1110 and 60-1111 and repealing the existing sections, by Committee on Ways and Means.

SB 293, An act concerning traffic regulation; relating to all-terrain vehicles; definitions; amending K.S.A. 2008 Supp. 8-1402a and repealing the existing section, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to Committees as indicated:

Education: **SB 290**. Financial Institutions & Insurance: **SB 288**. Judiciary: **SB 289**. Natural Resources: **SB 286**, **SB 287**; **SCR 1610**.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 74, An act concerning the cash-basis law; relating to exceptions thereto; amending K.S.A. 2008 Supp. 10-1116a and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Pyle.

The bill passed.

SB 107, An act concerning bingo games; relating to operation thereof and prizes awarded; amending K.S.A. 2008 Supp. 79-4701, 79-4706 and 79-4717 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 10, Nays 29, Present and Passing 1, Absent or Not Voting 0.

Yeas: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Kultala, Masterson, Pilcher-Cook, Steineger, Wysong.

Nays: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Hensley, Holland, Huelskamp, Kelly, Kelsey, Lee, Lynn, Marshall, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil.

Present and Passing: Wagle.

A constitutional majority having failed to vote in favor of the bill, SB 107 did not pass.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "no" on **SB 107** because this bill will harm and, in some cases irreparably harm, the financial viability of local veterans service organizations.

The bill creates ambiguity and a potential loophole in the law that would allow bingo to be played seven days a week.

Out of respect for those American men and women who laid their lives on the line, and in some cases, gave their extreme sacrifice to our country, I vote no.—JIM BARNETT

SB 115, An act relating to fire departments; concerning certain powers; amending K.S.A. 31-145 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 178, An act concerning amusement rides; amending K.S.A. 2008 Supp. 44-1601 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 215, An act concerning certain boards, commissions and officers; relating to the appointment thereof; amending K.S.A. 2008 Supp. 75-712 and 75-4315d and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 225, An act concerning the low-income family postsecondary savings accounts incentive program; amending K.S.A. 2008 Supp. 75-650 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote AYE. The creation of Individual Development Accounts (I.D.A.'s) or Family Development Accounts (F.D.A.'s) was a hard fought Legislative victory which has enabled average and low income Kansans to save for their first home or small business or higher education with matching dollar benefits. I am proud of **SB 225** and this Senate's endorsement of a personal advocacy that I have led and hold dear.—DAVID HALEY

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Marshall introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1832-

A RESOLUTION congratulating

the Pittsburg State University head football coach Chuck Broyles.

WHEREAS, The Liberty Mutual Football Coach of the Year award honors coaches who best exemplify excellence in coaching based on their on-field coaching results, sportsmanship and integrity, the academic excellence of their student-athletes and their community commitment; and

WHEREAS, Coach Broyles, who also serves as director of intercollegiate athletics, recently completed his 19th season as head football coach, guiding the Pittsburg State Gorillas to an 11-2 overall record and a 15th appearance in the NCAA Division II national playoffs in 2008; and

WHEREAS, During his successful tenure as Pitt State head football coach, Coach Broyles has achieved a 193-41-2 overall record, averaging more than 10 wins per season; and

WHEREAS, In 1999, Coach Broyles became the first coach since the 1890's to record his 100th coaching victory in fewer than 10 full seasons; and

WHEREAS, Coach Broyles led the Gorillas to the 1991 NCAA Division II National Championship, as well as appearances in the 1992, 1995 and 2004 NCAA Division II National Championship games; and

WHEREAS, Coach Broyles' unfailing coaching excellence is further demonstrated by the fact that the Gorillas have qualified for the NCAA Division II playoffs 15 times during his 19-year tenure; and

WHEREAS, Coach Broyles' sterling leadership continues in the classroom, where he has coached 15 ESPN The Magazine Academic All-Americans since January 2000, leading all schools in Division II and second among all national college football programs; and

WHEREAS, Coach Broyles' charitable contributions have been numerous and wideranging, including his significant support for memorial scholarships in the names of his late son Kyle and former Pitt State Gorillas athletic director Tommy Riggs; his organization of the Gorillas' annual YMCA Youth Football Day; his coordination of team involvement in Project Franklin to restore the nearby tornado ravaged community; the annual campus "Big Event" town spring clean-up project; and facilitating his team's visits to local elementary schools to read with students; and

WHEREAS, Coach Broyles exemplifies the characteristics of a coach whose leadership not only makes great football players, but also makes great citizens: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate Coach Chuck Broyles for winning the 2008 NCAA Division II Liberty Mutual Football Coach of the Year award and that we wish him continued success in the future; and

Be it further resolved: That the Secretary of the Senate is directed to provide an enrolled copy of this resolution to Senator Marshall for presentation to Coach Chuck Broyles and two additional copies to be mailed to the Pittsburg State University President's office, 207 Russ Hall, Pittsburg State University, Pittsburg, KS, 66762.

On emergency motion of Senator Marshall SR 1832 was adopted unanimously.

Senator Marshall introduced Coach Broyles and Senators joined him in honoring the coach with a standing ovation.

Senator Marshall introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1833-

A RESOLUTION congratulating Pittsburg State University assistant head football coach and offensive coordinator Tim Beck.

WHEREAS, Offensive coordinator Tim Beck of the Pittsburg State Gorillas football team was nominated by his peers for the 2008 FootballScoop.com NCAA Division II Coordinator of the Year award and selected by a panel of former coaches and players as the coordinator of the year; and

WHEREAS, Coach Beck has served as offensive coordinator at his alma mater for 15 seasons, dating back to 1994; and

WHEREAS, Over the last five seasons, the Gorillas' option offense run by Coach Beck has scored 2,902 points (44.6 points per game) and compiled 32,559 total yards of offense (500.9 yards per game), ranking the Gorillas either number one or two nationally in both scoring and total offense in three of the last five seasons; and

WHEREAS, In 2004, Coach Beck's offense staked its claim as the most prolific in the history of NCAA football, leading Division II in scoring with 55.8 points per game, rushing with 354.7 yards per game, total yards of offense with 598.4 yards per game and breaking the 118 year-old all-time NCAA single-season scoring record with 837 points, shattering the old mark of 765 points set by Harvard in 1886; and

WHEREAS, During the 2008 season, Coach Beck led the Gorillas offense to an average of 35.5 points per game and 432.7 yards of total offense per game, en route to an 11-2 record and the second round of the NCAA Division II playoffs: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate Coach Tim Beck for winning the 2008 FootballScoop.com NCAA Division II Coordinator of the Year award, that we commend him for helping to craft yet another winning season and that we wish him continued success in the future; and

Be it further resolved: That the Secretary of the Senate is directed to provide an enrolled copy of this resolution to Senator Marshall for presentation to Coach Tim Beck and two

additional copies to be mailed to the Pittsburg State University President's office, 207 Russ Hall, Pittsburg State University, Pittsburg, KS, 66762.

On emergency motion of Senator Marshall SR 1833 was adopted unanimously.

Senators recognized Coach Beck with a standing ovation. Also introduced and honored was Dr. Tom Bryant, President of Pittsburg State University.

REPORT ON ENGROSSED BILLS

SB 107, SB 178, SB 225 reported correctly engrossed February 26, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Financial Institutions and Insurance recommends SB 174 be passed.

Also, **SB 49** 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 **Public Health and Welfare** recommends **SB 147** be amended on page 1, in line 16, by striking "at the obstetric panel administered"; in line 17, by striking all following "infection"; in line 18, by striking all preceding the period; in line 21, following the period by inserting "When a pregnant woman's HIV status is unknown for any reason at the time of labor and delivery, such woman shall be screened for HIV infection as soon as possible within medical standards. A pregnant woman shall have the right to refuse such screening at any time."; in line 32, preceding the period by inserting ", except that this subsection shall not apply to any newborn child whose parents object to the test as being in conflict with their religious tenets and practices"; in line 35, preceding "establishing" by inserting ", within a year from the effective date of this act,"; in line 36, by striking "in Kansas"; and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, February 27, 2009.

Journal of the Senate

THIRTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS Friday, February 27, 2009—8:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with twenty-nine senators present. Senators Barnett, Brownlee, Brungardt, Colyer, Huelskamp, Kelsey, Lynn, Pyle, V. Schmidt, Taddiken and Wagle were excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

While at home over the week-end spare the Senators from constituents who think they are in Washington.

Please remind constituents That whether marketing or farming, Senators cannot be blamed For the economy or global warming.

And also remind constituents That Senators can't be blamed For what goes on in Washington, They are really not the same.

And please remind constituents Senators deal with Kansas land, And cannot be responsible for Iraq or Afghanistan.

And, Lord, please help constituents To remember if they can Not to ask their Senator To greet Roberts and Moran!

I ask this in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and resolution were introduced and read by title:

SB 294, An act concerning state agencies; relating to the whistleblowers act; employee award program; amending K.S.A. 2008 Supp. 75-2973 and 75-37,105 and repealing the existing sections, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1611-

By Senators Petersen, Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Holland, Huelskamp, Kelly, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Pilcher-Cook, Pyle, D. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle and Wysong

A PROPOSITION to amend section 4 of the bill of rights

of the constitution of the state of Kansas, relating to the right to bear arms.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 4 of the bill of rights of the constitution of the state of Kansas is hereby amended to read as follows:

"§ 4 Individual right to bear arms; armies .The people have the right to bear arms for their defense and security A person has the right to keep and bear arms for the defense of self, family, home and state, for lawful hunting and recreational use, and for any other lawful purpose; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict sub-ordination to the civil power."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

- "*Explanatory statement*. The purpose of this amendment is to preserve constitutionally the right of a person to keep and bear arms for the defense of self, family, home and state, and for all other lawful purposes, including hunting and recreation.
- "A vote for this amendment would constitutionally preserve the right of a person to keep and bear arms for the defense of self, family, home and state, and for lawful hunting and recreational use, and for any other lawful purpose.
- "A vote against this amendment would provide for no constitutional right of a person to keep and bear arms for the defense of self, family, home and state, and for lawful hunting and recreational use, and for any other lawful purpose."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 2010 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Federal and State Affairs: **SB 291**. Judiciary: **SB 292**. Transportation: **SB 293**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Haley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1834-

A RESOLUTION congratulating and commending Ed Dwight.

WHEREAS, Ed Dwight was born and raised in Kansas City, Kansas and attended Bishop Ward High School and Kansas City Kansas Community College before leaving for military service; and

WHEREAS, Ed Dwight's numerous accomplishments, which include being a former Air Force test pilot, America's first African American astronaut trainee, a computer systems engineer, an aviation consultant, a restauranteur, a real estate developer and a construction entrepreneur, truly make him a "Renaissance" man; and WHEREAS, For the past 35 years, Mr. Dwight has used his talents to become an internationally recognized sculptor whose works depict the contributions and accomplishments of African Americans; and

WHEREAS, Mr. Dwight's first serious artistic endeavor began with a commission to create a sculpture of George Brown, Colorado's first African American Lieutenant Governor, which was soon followed by a second commission by the Colorado Centennial Commission for a series of bronzes, entitled "Black Frontier Spirit in the American West", depicting the contributions of African Americans to the opening of the West; and

WHEREAS, Ed Dwight has crafted numerous public art projects throughout the country, including the first bi-national monument in Detroit, Michigan and Windsor, Canada dedicated to the International Underground Railroad Movement; the African American History Monument on the Capitol Grounds in Columbia, South Carolina and a memorial to the first African American legislator in Ohio, George Washington Williams, installed in the State Capitol in Columbus, Ohio; and

WHEREAS, Ed Dwight is currently working on one of the largest memorials to date in the United States, which honors Dr. Martin Luther King, Jr., and will be installed in Denver, Colorado; and

WHEREAS, Mr. Dwight continues to strive toward the creation of the only tribute to African Americans on the Washington Mall, the Black Revolutionary War Patriots Memorial which honors the 5,000 African Americans that served and fought with George Washington in the Revolutionary War, contributing to the birth of the Nation. The tribute will be located between the Lincoln Memorial and the Washington Monument in Washington, D.C.; and

WHEREAS, Ed Dwight's outstanding works of art and contributions to society have made this "Renaissance" man an enormous asset to Kansas and the country: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Ed Dwight for his outstanding accomplishments and thank him for his many contributions to Kansas and the entire country; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Haley.

On emergency motion of Senator Haley SR 1834 was adopted unanimously.

Senators Owens, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Kelly, Kelsey, Kultala, Lee, McGinn, Ostmeyer, Pilcher-Cook, Reitz, D. Schmidt, Schodorf, Umbarger and Vratil introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1835-

A RESOLUTION urging the Government of Turkey to uphold and safeguard religious and human rights without compromise; cease its discrimination of the Ecumenical Patriarchate; grant the Ecumenical Patriarch appropriate international recognition, ecclesiastic succession and the right to train clergy of all nationalities; and respect the property rights and human rights of the Ecumenical Patriarchate.

WHEREAS, The Orthodox Christian Church, in existence for nearly 2,000 years, numbers approximately 300 million members world-wide with more than 2 million members in the United States; and

WHEREAS, Since 1453, the continuing presence of the Ecumenical Patriarchate in Turkey has been a living testament to the religious coexistence of Christians and Muslims; and

WHEREAS, This religious coexistence is in jeopardy because the Ecumenical Patriarchate is considered a minority religion by the Turkish government; and

WHEREAS, The Government of Turkey has limited the candidates available to hold the office of Ecumenical Patriarch to only Turkish nationals and from the millions of Orthodox Christians living in Turkey at the turn of the 20th century and due to the continued policies during this period by the Turkish government, there remain less than 3,000 of the Ecumenical Patriarch's flock left in Turkey today; and

WHEREAS, The Government of Turkey closed the Theological School on the island of Halki in 1971 and has refused to allow it to reopen, thus impeding training for Orthodox Christian clergy; and

WHEREAS, The Turkish government has confiscated nearly 94 percent of the Ecumenical Patriarchate's properties and has placed a 42% tax, retroactive to 1999, on the Baloukli Hospital and Home for the Aged, a charity hospital run by the Ecumenical Patriarchate; and

WHEREAS, The European Union, a group of nations with a common goal of promoting peace and the well-being of its peoples, began accession negotiations with Turkey on October 3, 2005; and

WHEREAS, The European Union defined membership criteria for accession at the Copenhagen European Council in 1993, obligating candidate countries to achieve certain levels of reform, including stability of institutions guaranteeing democracy, adherence to the rule of law and respect for and protection of minorities and human rights; and

WHEREAS, The Turkish government's current treatment of the Ecumenical Patriarchate is inconsistent with the membership conditions and goals of the European Union; and

WHEREAS, Orthodox Christians in Kansas and throughout the United States stand to lose their spiritual leader because of the continued actions of the Turkish government; and

WHEREAS, The Archons of the Ecumenical Patriarchate of the Order of St. Andrew the Apostle, a group of laymen who each have been honored with a patriarchal title, or "offikion", by the Ecumenical Patriarch for their outstanding service to the Orthodox Church, will send an American delegation to Turkey to meet with Turkish government officials, as well as the United States Ambassador to the Republic of Turkey, regarding the Turkish government's treatment of the Ecumenical Patriarchate: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we urge the Government of Turkey to uphold and safeguard religious and human rights without compromise; cease its discrimination of the Ecumenical Patriarchate; grant the Ecumenical Patriarch appropriate international recognition, ecclesiastic succession and the right to train clergy of all nationalities; and respect the property rights and human rights of the Ecumenical Patriarchate; and

Be it further resolved: That the Secretary of the Senate is directed to provide an enrolled copy of this resolution to the President of the United States, the United States Ambassador to the Republic of Turkey, the Ambassador of the Republic of Turkey to the United States and to the members of the Kansas Congressional Delegation.

Senator Ostmeyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1836-

A RESOLUTION congratulating and commending

the Goodland High School girls golf team.

WHEREAS, The Goodland High School girls golf team won the 2008 3A Golf State Championship; and

WHEREAS, The Goodland Cowgirls captured first place at the State Championship with a team score of 416, six strokes ahead of second place; and

WHEREAS, The team members are Kirsten Topliff, Chelsie Gausman, Andrea Roeder, Natashia Hillman, Amber Douglas and Katlyn Topliff; and

WHEREAS, Head Coach Connie Livengood has provided the instruction and guidance to the team that has made this incredible season possible; and

WHEREAS, The Goodland community, whose support for the team has been instrumental to its success, is extremely proud of the team's dedication and effort; and

WHEREAS, Golf requires great mental toughness and fortitude, necessitating these athletes to dedicate many hours to fine-tune their swings and short game: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Goodland High School girls golf team for winning the 2008 3A Golf State Championship; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Ralph Ostmeyer.

On emergency motion of Senator Östmeyer SR 1836 was adopted unanimously.

Senator Ostmeyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1837-

A RESOLUTION congratulating and commending the Scott Community High School boys track and field team.

WHEREAS, The Scott Community High School boys track and field team won the 2008 3A Track and Field State Championship; and

WHEREAS, The Scott Community High School Beavers had a dominating performance, capturing medals in 10 events, including seven gold medals; and

WHEREAS, The team members are Trace Kendrick, Chance Chelemedos, Calvin Hughes, Bill John, Cosme Chavez, Ian Huck, Winston Sattler, Levi Kuntzsch, Pedro Medellin, Colter Wright, Andrew Augerot, Brenton Carson, Sam McDaniel and Miles Pearson; and

WHEREAS, Head Coach Jim Turner and assistants Glen O'Neil, Jennifer Rose, Kevin Reese and Brent Harrel have provided the instruction and guidance to the team that have made this incredible season possible; and

WHEREAS, The Scott County community, whose support for the team has been instrumental to its success, is extremely proud of the team's dedication and effort; and

WHEREAS, Track and field is one of the more grueling high school sports, requiring these outstanding athletes to dedicate many hours to training: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Scott Community High School boys track and field team for winning the 2008 3A Track and Field State Championship; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Ralph Ostmeyer.

On emergency motion of Senator Ostmeyer SR 1837 was adopted unanimously.

Senator Ostmeyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1838-

A RESOLUTION congratulating and commending

the Ness City High School boys cross-country team.

WHEREAS, The Ness City High School boys cross-country team won the 2008 1A Cross-Country State Championship; and

WHÉREAS, The Ness City Runnin' Eagles had a dominating performance with Colton McNinch taking first place, Kyle Calvin finishing third and Dustin Schuler capturing fourth; and

WHEREAS, The team members are Colton McNinch, Kyle Calvin, Dustin Schuler, Dustin Foster, Josh Snodgrass, Case Beckman and Drew Clarke; and

WHEREAS, Head Coach Patrick Younger and Assistant Coach Jeff Zook have provided the instruction and guidance to the team that have made this incredible season possible; and

WHEREAS, The Ness City community, whose support for the team has been instrumental to its success, is extremely proud of the team's dedication and effort; and

WHEREAS, Cross-country is one of the more grueling high school sports, requiring these outstanding athletes to dedicate many hours to training: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Ness City High School boys cross-country team for winning the 2008 1A Cross-Country State Championship; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Ralph Ostmeyer.

On emergency motion of Senator Östmeyer SR 1838 was adopted unanimously.

Senator Ostmeyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1839-

A RESOLUTION congratulating and commending

the Greeley County High School girls cross-country team.

WHEREAS, The Greeley County High School girls cross-country team won the 2008 1A Cross-Country State Championship; and

WHEREAS, The team members are Madison Moser, Kennedy Schneider, Carly Robertson, Jasmine Dixon, Sarah Jamison, Carissa Ochsner, Morgan Schmidt and Megan Shafer; and

WHEREAS, Head Coach Greg Cook has provided the instruction and guidance to the team that has made this incredible season possible; and

WHEREAS, The Greeley County community, whose support for the team has been instrumental to its success, is extremely proud of the team's dedication and effort; and

WHEREAS, Cross-country is one of the more grueling high school sports, requiring these outstanding athletes to dedicate many hours to training: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Greeley County High School girls cross-country team for winning the 2008 1A Cross-Country State Championship; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Ralph Ostmeyer.

On emergency motion of Senator Ostmeyer SR 1839 was adopted unanimously.

REPORT ON ENROLLED BILLS

SR 1831, SR 1832, SR 1833, SR 1834 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 27, 2009.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Monday, March 2, 2009.

Journal of the Senate

THIRTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Monday, March 2, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-eight senators present. Senators D. Schmidt and Pyle were excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

From time to time I hear people being accused of "playing politics". I guess this has been going on since the first Congress and state legislatures.

Someone thinks he's doing right, Not resorting to any tricks. But another says all he's doing Is "playing politics".

One person admits that he might Be acting like a maverick. Another person begs to differ, Saying he's "playing politics".

Another person is accused Of doing things too quick, But it's enough to be accused Of "playing politics".

Lord, maybe most of us Have gotten in our licks, And could be accused of "Playing politics."

I wonder when the trumpet blows And You return to take Your pick, The rest will shake their heads and say, "They're still playing politics."

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 295. An act concerning blind and visually impaired persons; establishing the motor vehicle and safe mobility committee; powers and duties thereof, by Committee on Ways and Means.

SB 296, An act concerning state finance; establishing a process to evaluate and implement federal funding available for state agencies under the federal American economic recovery and reinvestment act of 2009, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and resolutions were referred to Committees as indicated: Federal and State Affairs: **SR 1835**. Judiciary: **SCR 1611**. Ways and Means: **SB 294**.

MESSAGE FROM THE HOUSE

Announcing passage of Sub HB 2014.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

Sub HB 2014 was thereupon introduced and read by title.

REFERENCE OF HOUSE BILLS

The President referred Sub HB 2014 to the Committee on Utilities.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Emler introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1840-

A Resolution congratulating and commending the Sterling High School debate team for sweeping the 2009 3-2-1A Two-Speaker Debate state tournament.

WHEREAS, On January 24, 2009, the Sterling High School debate team won first, second and third place in the 3-2-1A Two-Speaker State Championship; and

WHERÊAS, Members of the Sterling High School debate team are Jesi Ball, Brianna Bennett, Anna Brashear, Eric Hostetler, Sam Leake, Breanna Muns, Daniel Skucius and Brett Smith; and

WHEREAS, The team was well-coached throughout the season by head coach Betsy Dutton and assistant coach Melissa Feil; and

WHEREAS, The team of Sam Leake and Jesi Ball captured first place with an 8-1 record, the team of Eric Hostetler and Daniel Skucius finished second with an 8-1 record and the team of Brett Smith and Anna Brashear earned third place with a 5-3 record; and

WHEREAS, Sterling's overwhelming success was made all the more impressive by the fact that Sam Leake was the only team member with 4 years of debate experience; and

WHEREAS, The efforts of the 2009 team bring great credit upon themselves and their families, coaches and school and are deserving of being applauded for their hard work and effort required to excel in this activity: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Sterling High School debate team for sweeping the 3-2-1A Two-Speaker Debate State Championship; and

Be it further resolved: That the Secretary of the Senate provide 10 enrolled copies of this resolution to Senator Jay Scott Emler for presentation to the team.

On emergency motion of Senator Emler SR 1840 was adopted unanimously.

Representing the team were Sam Leake, Eric Hostetler, Daniel Skucius, Brett Smith, Anna Brashear and Head Coach Betsy Dutton. They were recognized with a standing ovation.

REPORT ON ENROLLED BILLS

SR 1836, SR 1837, SR 1838, SR 1839 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 2, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Local Government recommends SB 253 be amended on page 4, after line 19, by inserting the following:

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"New Sec. 2. No city or county may establish procedures regarding the adoption of special use or conditional use permits for mining operations subject to K.S.A. 49-601 et seq., and amendments thereto, which require the approval of more than a majority of all members of the governing body.";

of the governing body."; And by renumbering the remaining sections accordingly; and the bill be passed as amended.

Committee on Transportation recommends SB 153 be passed.

On motion of Senator V. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, March 3, 2009.

Journal of the Senate

THIRTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Tuesday, March 3, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present.

President Morris introduced as guest chaplain, Rev. Tommy Scott, Sr., pastor, Community Church, Topeka, Kansas, who delivered the invocation:

Our Heavenly Father we thank You that You have urged us to come boldly to the throne of grace, that we might obtain mercy and find grace to help in time of need.

As we come to You I pray that we might find each of these things, grace, mercy and help.

We know we need mercy, for in many ways we have all failed before You and for that we ask mercy and forgiveness.

We need grace, for we need Your undeserved favor today.

We need Your help in time of need, for our state and our nation face critical issues and Your help is needed.

I pray for these good men and women assembled here today, for I know they have come here with the earnest desire to serve the people of this state.

I am honored to pray for them and to ask You to bless them and give them the wisdom and courage needed to make wise and sometimes difficult decisions in our behalf.

And so I pray, Father bless them with wisdom, strength and peace today and every day.

In Jesus Name, amen.

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 297, An act concerning governmental ethics; eliminating the filing requirement for certain faculty of state education institutions; amending K.S.A. 2008 Supp. 46-247 and repealing the existing section, by Committee on Ways and Means.

SB 298, An act concerning oil and gas; relating to the state corporation commission regulation of certain wells; amending K.S.A. 55-165 and repealing the existing section, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Transportation: **SB 295**. Ways and Means: **SB 296**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2121.** Also, passage of **SB 14**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2121 was thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Apple introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1841-

A RESOLUTION recognizing and congratulating the Ursuline Sisters of Kansas for their 113 years of faith and service.

WHEREAS, The Ursuline order was originally founded by the Roman Catholic Church at Brescia, Italy in the year 1535, primarily for the education of girls and the care of the sick and needy; and

WHEREAS, In 1895 the Ursuline Sisters began their ministry in Miami County, Kansas and have since become an unparalleled charitable and educational force in the City of Paola and eastern Kansas; and

WHEREAS, From 1896 through 1995 the Ursuline Sisters have educated more than 50,000 students in the Ursuline Academy, St. Patrick's School, and Holy Trinity School; and

WHEREAS, In 1941 the Ursuline Sisters opened Camp Ursuline, offering hundreds of boys and girls the opportunity for summer learning, outdoor fun, sports and recreation; and

WHEREAS, In 1966 the Ursuline Sisters donated 5 acres of land and \$25,000 to build a nursing home in Paola that today is known as Medicalodge; and

WHEREAS, In 1969 the Ursuline Sisters donated 34 acres of land and \$50,000 as well as their time, expertise, and spiritual guidance to begin the ministry of Lakemary Center, Inc.; and

WHEREAS, In 1972 the Ursuline Sisters organized the first Senior Center in Paola; and WHEREAS, In 1977 the Ursuline Sisters organized and guided the Foster Grandparents Program; and

WHEREAS, In 1985 the Ursuline Sisters sold the Ursuline Auditorium, now home of the Paola Community Center, to the City of Paola for \$1.00; and

WHEREAS, The Ursuline Sisters have established a beautiful and enduring tradition of public service, education and faith that has enriched the communities of eastern Kansas for over 113 years; and

WHEREAS, The Ursuline Sisters seek to continue this tradition in Kansas as well as in their new home in Mount Saint Joseph, Kentucky: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we do hereby recognize and humbly thank the Ursuline Sisters of Kansas for their 113 years of devoted service; and

Be it further resolved: That seven copies of this resolution be furnished to the Ursuline Sisters of Kansas.

On emergency motion of Senator Apple SR 1841 was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on Commerce recommends SB 108 be passed.

Committee on **Local Government** recommends **SB 257** be amended on page 2, in line 16, by striking "For the purpose"; by striking all in lines 17 and 18; in line 19, by striking "considered to constitute the proposed district."; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2147**, as amended by House Committee, be passed.

Also, $H\hat{B}$ **2045** 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 **Substitute for HB 2014**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "SEN-ATE Substitute for Substitute for HOUSE BILL No. 2014," as follows:

"SENATE Substitute for Substitute for HOUSE BILL No. 2014 By Committee on Utilities

"AN ACT concerning energy; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 19-101a, 65-3012 and 66-104d and K.S.A. 2008 Supp. 65-3005, 65-3008a and 66-1,184 and repealing the existing sections; also repealing K.S.A. 19-101m."; and the substitute bill be passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, March 4, 2009.

Journal of the Senate

THIRTY-SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, March 4, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris.

The roll was called with thirty-nine senators present.

Senator Barnett was excused.

President Morris introduced as guest chaplain, Rev. Mike Roy, Metro East Baptist Church, Wichita, KS, who delivered the invocation:

Almighty God,

You are the true, living and holy God to whom we owe the highest praise and adoration. You alone are worthy of glory and honor. Thank you for your grace, mercy and loving kindness toward us. We confess that we are storm-tossed, afflicted, frail sinful creatures of dust. Thank you for loving us so much that you have solved our biggest problem-our sin problem through the death and resurrection of your only son, the Lord Jesus Christ. As a result, we trust you to solve every other problem and issue before us. We thank you that, as the Bible says, nothing is too difficult for you. Thank you for the gift of freedom in this land and freedom that comes from your gracious gift of salvation through Jesus Christ. Thank you for the public servants in this Senate. We ask that you provide us with wisdom and strength for this service to which you have called us. The tasks before us are often daunting. But thank you for proving yourself trustworthy time and again. We look to you for help, wisdom and guidance. Please lead us in your path of truth, mercy, righteousness and holiness by your grace and for your glory alone. We desperately need your guiding hand. We commit ourselves, our needs and the needs of the people of Kansas to you in the name of your perfect son, the Lord Jesus Christ.

Amen

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 299, An act concerning the department of health and environment; relating to rules and regulations for underground hydrocarbon storage wells; amending K.S.A. 55-1,117 and repealing the existing section, by Committee on Ways and Means.

SB 300, An act regulating traffic; concerning permits for oversize or overweight vehicles; fees; amending K.S.A. 2008 Supp. 8-1911 and repealing the existing section, by Committee on Ways and Means.

SB 301, An act concerning land surveys; repealing K.S.A. 58-2001, 58-2002, 58-2003, 58-2004 and 58-2005, by Committee on Ways and Means.

SB 302, An act concerning transportation; relating to intermodal transportation projects, and providing for the financing thereof, by Committee on Ways and Means.

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REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated: Agriculture: **HB 2121**. Ethics and Elections: **SB 297**. Utilities: **SB 298**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2206**, **HB 2311**. Announcing passage of **SB 82**, **SB 219**. Also, passage of **SB 102** as amended, **H Sub SB 238**.

INTRODUCTION OF HOUSE BILL AND CONCURRENT RESOLUTIONS

HB 2206, HB 2311 were thereupon introduced and read by title.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **SR 1828** be adopted. Committee on **Education** recommends **HB 2007** be passed. Committee on **Federal and State Affairs** recommends **SB 223, SB 262; HB 2068;**

Substitute for HB 2339, as amended by House Committee of the Whole, be passed. Committee on Judiciary recommends SB 278 be amended by substituting a new bill to

be designated as "Substitute for SENATE BILL No. 278," as follows:

"Substitute for SENATE BILL No. 278

By Committee on Judiciary

"AN ACT concerning driving; creating the Kansas DUI commission; creating the correctional services special revenue fund; relating to driver improvement clinics; providing for disposition of certain moneys; relating to penalties for driving under the influence of alcohol or drugs; information sent to the Kansas bureau of investigation central repository; amending K.S.A. 12-4517 and K.S.A. 2008 Supp. 8-255, 8-267, 8-1567, 8-1567, as amended by section 2 of this act, and 12-4106 and repealing the existing sections."; and the substitute bill be passed.

Committee on Transportation recommends HB 2023 be passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, March 5, 2009.

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THIRTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, March 5, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

President Morris introduced as guest chaplain, Rev. Dr. Donald C. Bakely, United Methodist Church, Kansas City, Kansas, who delivered the invocation:

Lord, it is you who has called us together to serve those who need us. And now we turn to you because we need your guidance. We need your wisdom when our wisdom doesn't stretch as far as it should.

When we look across this room, we see a house full of differences different beliefs, different strengths, different hopes and causes, different pains and different answers.

It is so easy for us to see those differences and to concentrate on the potential conflicts in them. It is easy for us to become trapped by our desire to persuade others to accept our ideas.

Ĥelp us to see these differences as gifts from a loving God, as a warehouse of ideas from which we can shape the answers to the needs of our people. Help us to recognize the enormous strength in this room. Help us to use it to make Kansas strong, wise, and helpful. Give us the wisdom to see the truth, the courage to follow it, and the kindness to ease the pain of those who hurt.

We ask this in the name of Jesus. Amen

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and resolutions were introduced and read by title:

SB 303, An act abolishing the Kansas technology enterprise corporation and Kansas, Inc. and transferring the powers and duties thereof to the department of commerce; amending K.S.A. 74-5001a, 74-5007a, 74-8102, 74-8103, 74-8106, 74-8107, 74-8108, 74-8109, 74-8110, 74-8111, 74-8204, 74-8310, 74-8316, 74-8317, 74-8318, 74-8319, 74-8401, 74-9303, 74-9306, 75-2935b, 75-3208 and 76-770 and K.S.A. 2008 Supp. 12-17,169, 12-17,177, 74-520a, 74-5005, 74-5049, 74-5095, 74-50133, 74-50,156, 74-8011, 74-8104, 74-8131, 74-8132, 74-8133, 74-8134, 74-8135, 74-8136, 74-8405, 74-99b03, 74-99b04, 74-99b09, 74-99b63, 74-99b63, 74-99c07, 74-99e02 and 75-2935 and repealing the existing sections; also repealing K.S.A. 74-5050, 74-50,101, 74-8003, 74-8009a, 74-8011, 74-8012, 74-8013, 74-8015, 74-8016 and 74-8105 and K.S.A. 2008 Supp. 74-50,134, 74-8001, 74-8002, 74-8004, 74-8005, 74-8006, 74-8007, 74-8010, 74-8101 and 74-99c10, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1612-

- By Senators Wagle, D. Schmidt, Abrams, Brownlee, Bruce, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle and Taddiken.
- A PROPOSITION to amend section 5 of article 3 of the constitution of the state of Kansas, relating to the selection of justices of the supreme court.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 5 of article 3 of the constitution of the state of Kansas is hereby amended to read as follows:

- *§ 5. Selection of justices of the supreme court. (a) Any vacancy occurring in the office of any justice of the supreme court and any position to be open thereon as a result of enlargement of the court, or the retirement or failure of an incumbent to file his such justice's declaration of candidacy to succeed himself be retained in office as hereinafter required, or failure of a justice to be elected to succeed himself be retained in office, shall be filled by appointment by the governor, with the consent of the senate, of one of three six persons possessing the qualifications of office who shall be nominated and whose names shall be submitted to the governor by the supreme court nominating commission established as hereinafter provided.
- (b) In event of the failure of the governor to make the appointment within sixty days from the time the names of the nominees are submitted to him the governor, the chief justice of the supreme court, with the consent of the senate, shall make the appointment from such nominees.
- No person appointed pursuant to subsection (a) or (b) of this section shall (c)assume the office of justice of the supreme court until the senate, by an affirmative vote of the majority of all members of the senate then elected or appointed and qualified, consents to such appointment. The senate shall vote to consent to any such appointment not later than 30 days after such appointment is received by the senate. If the senate is not in session and will not be in session within the 30-day time limitation, the president of the senate shall convene the senate for the sole purpose of voting on such appointment and no other action shall be in order during such session. In the event a majority of the senate does not vote to consent to the appointment, the governor may appoint another of the six persons whose names were submitted to the governor pursuant to subsection (a) and such subsequent appointment shall be considered by the senate in the same procedure as provided in this article. If the governor fails to make such subsequent appointment within 15 days after the senate vote on the previous appointee or if all six persons whose names were submitted to the governor pursuant to subsection (a) have been considered by, but did not receive the consent of, the senate, then the chief justice of the supreme court shall make the appointment from such nominees.
- (c) (d) Each justice of the supreme court appointed pursuant to provisions of subsection (a), (b) or (c) of this section and consented to pursuant to the provisions of subsection (c) of this section shall hold office for an initial term ending on the second Monday in January following the first general election that occurs after the expiration of twelve months in office. Not less than sixty days prior to the holding of the general election next preceding the expiration of his such justice's term of office, any justice of the supreme court may file in the office of the secretary of state a declaration of candidacy for election to succeed himself be retained in office. If a declaration of his such justice's term of office. If such declaration is not so filed, the position held by such justice shall be open from the expiration of his such justice's term of office. If such declaration is filed, his such justice's name shall be submitted at the next general election to the electors of the state on a separate judicial ballot, without party designation, reading substantially as follows:

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"Shall

(Here insert name of justice.)

(Here insert the title of the court.)

be retained in office?"

If a majority of those voting on the question vote against retaining him such justice in office, the position or office which he such justice holds shall be open upon the expiration of his such justice's term of office; otherwise he such justice shall, unless removed for cause, remain in office for the regular term of six years from the second Monday in January following such election. At the expiration of each term he such justice shall, unless by law he such justice is compelled to retire, be eligible for retention in office by election in the manner prescribed in this section.

- (d) (\bar{e}) A nonpartisan nominating commission whose duty it shall be to nominate and submit to the governor the names of persons for appointment to fill vacancies in the office of any justice of the supreme court is hereby established, and shall be known as the "supreme court nominating commission." Said commission shall be organized as hereinafter provided.
- (c) (f) The supreme court nominating commission shall be composed as follows: One member, who shall be chairman chairperson, chosen from among their number by the members of the bar who are residents of and licensed in Kansas; one member from each congressional district chosen from among their number by the resident members of the bar in each such district; and one member, who is not a lawyer, from each congressional district, appointed by the governor from among the residents of each such district; one member, who is not a lawyer, appointed by the speaker of the house of representatives; and one member, who is not a lawyer appointed by the president of the senate.
- (f) (g) The terms of office, the procedure for selection and certification of the members of the commission and provision for their compensation or expenses shall be as provided by the legislature.
- (g) (h) No member of the supreme court nominating commission shall, while he such person is a member, hold any other public office by appointment or any official position in a political party or for six months thereafter be eligible for nomination for the office of justice of the supreme court. The commission may act only by the concurrence of a majority of its members."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

- "Explanatory statement. The purpose of this amendment is to require persons appointed by the governor or the chief justice to the office of justice of the supreme court to be consented to by the senate. A procedure is established whereby senate consent would occur within 30 days of receiving the appointment. If the senate does not consent by a majority vote, the supreme court nominating commission would submit six more names to the governor. The governor would then select an appointment which would again go to the senate for consent. The same nomination, appointment and consent procedure would be followed until a valid appointment is made. If the senate fails to vote on the appointment within 30 days, it will be considered that the senate has consented to the appointment.
- "A vote for this proposition would provide a procedure whereby the senate, by majority vote, would consent to the appointment, by the governor or chief justice, of supreme court justices.
- "A vote against this proposition would continue in effect the current provision whereby the supreme court nominating commission nominates three persons for the office of the supreme court and the governor appoints one of such persons."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as

provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2010 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

SENATE CONCURRENT RESOLUTION No. 1613-

- By Senators Wagle, Abrams, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, D. Schmidt, Steineger and Taddiken
- A PROPOSITION to amend section 24 of article 2 of the constitution of the state of Kansas, relating to appropriations.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 24 of article 2 of the constitution of the state of Kansas is hereby amended to read as follows:

"§ 24. Appropriations. No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law. The executive and judicial branches shall have no authority to direct the legislative branch to make any appropriation of money or to redirect the expenditure of funds appropriated by law, except as the legislative branch may provide by law or as may be required by the Constitution of the United States."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

- "*Explanatory statement*. The purpose of this amendment is to clarify that the executive and judicial branches shall not direct the legislative branch to make any appropriation of money or to redirect the expenditures of funds appropriated by law, except as the legislative branch may provide by law or as may be required by the Constitution of the United States.
- "A vote for this amendment would clarify that section 24 of article 2 of the Kansas Constitution provides that neither the judicial branch nor the executive branch can force the legislative branch to appropriate money, except as the legislative branch may provide by law or as may be required by the Constitution of the United States. The amendment would also prohibit the judicial branch from ordering a change in how money is spent after it has been appropriated by the legislative branch, except as the legislative branch may provide by law or as may be required by the Constitution of the United States. If money is appropriated for a particular purpose the judicial branch could not stop that money from being spent for that purpose.
- "A vote against this amendment would provide no change to the Kansas Constitution and the existing order that directs the legislative branch to make an appropriation of money shall remain in effect."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2010 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Federal and State Affairs: SB 301; HB 2206, HB 2311.

Judiciary: SB 299. Transportation: SB 300, SB 302.

CHANGE OF REFERENCE

The President withdrew **SB 299** from the Committee on **Judiciary**, and referred the bill to the Committee on **Utilities**.

TRIBUTE

Senator Kultala paid tribute to Major Ronnard Green, Major Janene Marshall-Gatling, Major Mark Winkler and Major Chris Whelan, who were visiting in the Senate. Senators joined her in honoring them with a standing ovation.

ACTION ON VETO MESSAGE

Members were given the opportunity to reconsider the line item vetoes on **H Sub for Sub SB 23**, An act making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010 and June 30, 2011, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2008 Supp. 55-193, 79-2978, 79-2979, 79-3425i, 79-34,156, 79-4801 and 82a-953a and repealing the existing sections, which was received on February 17, 2009, and was read before the Senate on February 18, 2009. There being no motion to reconsider the line item vetoes on **H Sub for Sub SB 23**, the President ruled the line item vetoes sustained.

FINAL ACTION ON CONSENT CALENDAR

SB 49, SB 275 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

SB 49, An act relating to insurance; concerning mental health and alcoholism, drug abuse or other substance use disorder benefits; amending K.S.A. 2008 Supp. 40-2,105a and 40-2258 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 275, An act relating to implements of husbandry; amending K.S.A. 84-2a-104 and K.S.A. 2008 Supp. 8-197 and 84-9-311 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

EXPLANATION OF VOTE

MR. PRESIDENT: **SB 275** clarifies that the only method to perfect a security interest in implements of husbandry is by filing a financing statement with the Secretary of State. Since enactment of the titling statutes, all lenders in Kansas and all segments of the agricultural industry have known that implements of husbandry are not required to be titled by law. The Kansas Department of Revenue has never required the titling of implements of husbandry. It would not serve the public interest to interpret the law in any other manner.

This bill will not impair the property rights of any person in Kansas who currently owns a tractor or other implement of husbandry, or a lender who has complied with existing law by perfecting a lien against that implement by filing a UCC financing statement. **SB 275** does not change existing law. It clarifies it. I vote aye on **SB 275.**—MARK TADDIKEN

Senators McGinn, Ostmeyer and Teichman request the record to show they concur with the "Explanation of Vote" offered by Senator Taddiken on **SB 275**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Francisco and Lee introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1842-

A RESOLUTION in memory of Jana Mackey and calling all Kansans to carry her torch by serving others.

WHEREAS, Jana Mackey served as an advocate and a devoted civic servant working tirelessly to promote the rights of women, victims of violence and the voices of many often unheard and under-represented individuals; and

WHEREAS, Jana, a 25 year-old law student at the University of Kansas and resident of Lawrence, was well-known throughout Kansas for her work on many women's issues, including the years she spent volunteering to aid victims of sexual assault and domestic violence, her active participation in the Kansas Commission on the Status of Women and her service as one of the youngest lobbyists at the Kansas State Capital for the National Organization for Women; and

WHEREAS, International Women's Day, March 8, 2009, is an appropriate day to honor Jana Mackey and the contributions she made to the promotion of women's issues; and

WHEREAS, Jana Mackey was murdered by an ex-boyfriend on July 2, 2008; and

WHEREAS, As a victim of an unjust crime, Jana was taken before her time. While we can never replace Jana, we can help her service live on through others. Symbolic of the number of people who attended Jana's funeral, her family and friends have created the *Eleven Hundred Torches* national campaign to honor her by asking hundreds of ordinary citizens to serve others: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That, as part of International Women's Day, we honor Jana Mackey for her tireless advocacy for many women's issues and that we join the *Eleven Hundred Torches* campaign and call on Kansans to set aside time on March 8th to pick up Ms. Mackey's torch by volunteering and making a difference in their communities; and

Be it further resolved: That the Secretary of the Senate be directed to provide seven enrolled copies of this resolution to Senator Marci Francisco.

On emergency motion of Senator Francisco SR 1842 was adopted unanimously.

Senator Francisco introduced Jana's mother, Christie Brungardt, and stepfather, Curt Brungardt and Senators joined her in recognizing them.

Senator Donovan introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1843-

A RESOLUTION congratulating and commending Matthew Heck.

WHEREAS, Matthew Heck, an esteemed resident of Wichita and a senior at Wichita High School East, has achieved national recognition for exemplary volunteer service by being named a Distinguished Finalist for the 2009 Prudential Spirit of Community Award; and

WHEREAS, This prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Mr. Matthew Heck earned this award by giving generously of his time and energy to organize a two-week, 1,300 mile relay run from Wichita to Washington, D.C., that promoted public awareness of genocide and raised more than \$25,000 for the Genocide Intervention Network; and

WHEREAS, In order to organize this cross-country marathon to promote genocide awareness, with the coordination of the Genocide Intervention Network in Washington, D.C., Matthew worked to: Set up a nonprofit organization to accept donations; plan the

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logistics for the relay; recruit eight other teens to join him; solicit contributions from friends, family members and local businesses and create a website (www.neverignore.org); and

WHEREAS, Matthew and his fellow runners left Wichita, Kansas on June 2, 2008, taking turns running 13 miles a day through eight states. To ensure that his endeavor raised awareness he contacted media along the relay route and afterwards would give speeches to schools, churches and other audiences; and

WHEREAS, In recognition of his service, Mr. Heck has received a \$1,000 award, an engraved silver medallion and a trip to Washington, D.C., where a distinguished National Selection Committee will name ten National Honorees who will receive additional \$5,000 awards, gold medallions, crystal trophies and \$5,000 grants from the Prudential Foundation for charitable organizations of their choice; and

WHEREAS, The success of the State of Kansas, the strength of our communities and the overall vitality of American society depends, in great measure, upon the dedication of young people like Mr. Heck who use their considerable talents and resources to serve others: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Matthew Heck for being named a Distinguished Finalist for the Prudential Spirit of Community Award, that we recognize his outstanding record of volunteer service, peer leadership and community spirit and that we wish him luck and continued success; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to Matthew Heck at 11420 West Douglas Avenue, Wichita, KS, 67212.

On emergency motion of Senator Donovan SR 1843 was adopted unanimously.

Senators Barnett, Abrams, Apple, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle and Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1844-

A RESOLUTION encouraging participation in the American Public Health Association and the Kansas Public Health Association Public Health Week, April 6-12, 2009.

WHEREAS, April 6-12 has been designated as National Public Health Week in Kansas; and

WHEREAS, Our nation spends more on health care than any other country, yet our health care system is failing and leaving millions of Americans vulnerable; and

WHEREAS, American infant mortality rates are three times higher than those in some developing countries; and

WHEREAS, Ethnic minority populations have nearly eight times higher mortality rates for key health conditions, such as diabetes, than that for non-minority populations; and

WHEREAS, America has made the top 10 list of countries with the most HIV/AIDS infected people; and

WHEREAS, Despite these challenges, public health professionals have contributed to dramatic progress over the last century through many advances such as adding fluoride to our drinking water, introducing seat belt laws and eliminating polio; and

WHEREAS, Successful health care reform is impossible without the support of a strong public health infrastructure; and

WHEREAS, Through support of the country's public health system, we can build on the successes of the past and establish the solid foundation needed for a healthy state and nation; and

WHEREAS, We support these efforts and call upon the people of Kansas to observe this week by helping our families, friends, neighbors, co-workers and leaders better understand the importance of public health to a successful health care system in light of this year's theme, "Building the Foundation for a Healthy America": Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we support the efforts of the American Public Health Association and the Kansas Public Health Association to recognize the week of April 6-12, 2009, as National Public Health Week; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Elaine L. Schwartz, Kansas Public Health Association, P.O. Box 67085, Topeka, KS, 66667.

On emergency motion of Senator Barnett SR 1844 was adopted unanimously.

REPORT ON ENROLLED BILLS

SR 1840, SR 1841 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 5, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HB 2142**, as amended by House Committee, be passed.

Committee on **Ethics and Elections** recommends **HB 2158**, as amended by House Committee, be amended on page 3, in line 17, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on Federal and State Affairs recommends SB 212 be passed.

Also, **SB 213** be amended on page 1, in line 29, after the period, by inserting "The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.";

On page 4, in line 42, after "closed" by inserting "to motor vehicle traffic";

On page 5, in line 5, by striking "reasonable" and inserting "reasonably" and the bill be passed as amended.

Committee on Financial Institutions and Insurance recommends SB 260; HB 2091; HB 2092, as amended by House Committee, be passed.

Committee on **Judiciary** recommends **SB 208** be amended on page 1, in line 18, by striking "Ten inmates" and inserting "Inmates";

On page 12, in line 8, by striking "2007" and inserting "2009"; and the bill be passed as amended.

Committee on Local Government recommends SB 254 be passed.

Committee on **Ways and Means** recommends **SB 196** be amended on page 2, in line 37, after the period, by inserting "Any participating employer who contracts services with any such third-party entity to fill a position covered under subsection (a) of K.S.A. 72-5410, and amendments thereto, shall include in such contract a provision or condition which requires the third-party entity to provide the participating employer with the necessary compensation paid information related to any such position filled by the third-party entity with a retirant to enable the participating employer to comply with provisions of this subsection relating to the payment of contributions and reporting requirements."; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Taddiken the following report was adopted:

Recommended: SB 108, SB 174; HB 2147 be passed

SB 147, SB 253 be amended by adoption of the committee amendments, and the bills be passed as amended.

 \hat{SB} 153 be amended by motion of Senator Umbarger, on page 2, in line 24, by striking "commercial"; also in line 24, before "motor" by inserting "commercial" and **SB** 153 be passed as amended.

S Sub for Sub HB 2014 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Apple, on page 3, in lines 8, 15 and 22, after "peak" by inserting "retail"; in line 38, after "equipment" by inserting "not

less than 51% of the cost of which is attributable to goods"; in line 39, after the period by inserting "Within 18 months after the effective date of this act, the secretary of commerce shall adopt rules and regulations to establish criteria to determine whether such equipment used is manufactured in Kansas. A public utility shall submit to the secretary of commerce on a form prescribed by the secretary of commerce, satisfactory proof in accordance with rules and regulations adopted pursuant to this paragraph that not less than 51% of the cost of the equipment used was attributable to manufacturing located in Kansas. If the secretary of commerce determines that such public utility has complied with rules and regulations adopted pursuant to this paragraph, the secretary shall certify such compliance to the state corporation commission."

S Sub for Sub HB 2014 be further amended by motion of Senator Peterson, on page 21, after line 41, by inserting the following:

"New Sec. 30. Within 18 months after the effective date of this act, the secretary of administration shall adopt rules and regulations that require that the average fuel economy standard for state-owned motor vehicles purchased during fiscal year 2011 shall not be less than 10% higher than the average fuel economy standard of state-owned motor vehicles purchased during fiscal year 2008, if such higher average fuel economy standards are life-cycle cost effective for such motor vehicles purchased during fiscal year 2011. The head of istate agency shall provide information to and cooperate with the secretary of administration for the purposes of implementing and administering this section and the rules and regulations adopted by the secretary of administration.

New Sec. 31. (a) The joint committee on energy and environmental policy established pursuant to K.S.A. 2008 Supp. 46-3701, and amendments thereto, in addition to the provisions of subsection (j) of K.S.A. 2008 Supp. 46-3701, and amendments thereto, shall include findings and recommendations concerning the use of moneys received by the state pursuant to the American recovery and reinvestment act of 2009, (Ú.S.C. 12501) for energy efficiency and conservation block grants, state energy programs, the weatherization assistance program and the alternative fueled vehicles pilot grant program in such joint committee's report to the 2010 and 2011 legislature.

(b) The provisions of this section shall expire on January 1, 2011.";

And by renumbering the remaining sections accordingly;

Also on page 21, in line 42, by striking "sections 1 through 30 and amend-"; in line 43, by striking "ments thereto," and inserting "this act";

S Sub for Sub HB 2014 be further amended by motion of Senator Lee on, page 21, after line 41, by inserting the following:

"New Sec. 30. (a) Except as provided in subsection (b), the commission shall grant or deny a certificate of public convenience as required by K.S.A. 66-131, and amendments thereto, or amendments to a certificate of public convenience, within 180 days of the receipt of the application unless the time for such decision has been extended by the applicant in writing.

(b) The time provisions of subsection (a) shall not apply to the consideration to grant or deny certificates of public convenience concerning cases involving acquisitions and mergers of utility companies.

Sec. 31. K.S.A. 2008 Supp. 74-99d07 is hereby amended to read as follows: 74-99d07. (a) Except as otherwise provided by this act, the authority shall have all the powers necessary to carry out the purposes and provisions of this act, including, without limitation:

(1) Having the duties, privileges, immunities, rights, liabilities and disabilities of a body corporate and a political instrumentality of the state;

(2) having perpetual existence and succession;

(3) adopting, having and using a seal and altering the same at its pleasure;

(4) suing and being sued in its own name;

(5) adopting bylaws for the regulation of its affairs and the conduct of its business;

(6) adopting such rules and regulations as the authority deems necessary for the conduct of the business of the authority;

(7) employing consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as the authority deems necessary and fixing the compensation thereof;

(8) making and executing all contracts and agreements necessary or incidental to the performance of the authority's duties and the execution of the authority's powers under this act;

(9) receiving and accepting from any federal agency grants, or any other form of assistance, for or in aid of the planning, financing, construction, development, acquisition or ownership of any property, structures, equipment, facilities and works of public improvement necessary or useful for the accomplishment of the purposes for which the authority was created and receiving and accepting aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(10) borrowing funds to carry out the purposes of the authority and mortgaging and pledging any lease or leases granted, assigned or subleased by the authority;

(11) purchasing, leasing, trading, exchanging or otherwise acquiring, maintaining, holding, improving, mortgaging, selling, leasing and disposing of personal property, whether tangible or intangible, and any interest therein; and purchasing, leasing, trading, exchanging or otherwise acquiring real property or any interest therein, and maintaining, holding, improving, mortgaging, leasing and otherwise transferring such real property, so long as such transactions do not conflict with the mission of the authority as specified in this act;

(12) as provided by K.S.A. 2008 Supp. 74-99d09, and amendments thereto, incurring or assuming indebtedness and entering into contracts with the Kansas development finance authority, which is authorized to borrow money, issue bonds and provide financing for: (A) The construction, upgrading or repair of transmission facilities of the Kansas electric transmission authority or the acquisition of right-of-way for such facilities, or both, and any such bonds shall be payable from and be secured by the pledge of revenues derived from the operation of such electric transmission facilities, or (B) making loans to finance the construction, upgrading or repair of transmission facilities not owned by the Kansas electric transmission authority or the acquisition of right-of-way for such facilities, or both, upon such terms and conditions as required by the authority, including a requirement that any entity receiving a loan under this act shall maintain records and accounts relating to receipt and disbursements of loan proceeds, transportation costs and information on energy sales and deliveries and make the records available to the authority for inspection, and any such bonds shall be payable from and be secured by the pledge of revenues derived from the operation of such electric transmission facilities;

(13) depositing any moneys of the authority in any banking institution within or without the state or in any depository authorized to receive such deposits, one or more persons to act as custodians of the moneys of the authority, to give surety bonds in such amounts in form and for such purposes as the board requires;

(14) recovering its costs through tariffs of the southwest power pool regional transmission organization, or its successor, and, if all costs are not recovered through such tariffs, through assessments against all electric public utilities, electric municipal utilities and electric cooperative utilities receiving benefits of the construction or upgrade and having retail customers in this state. Each such utility's assessment shall be based on the benefits the utility receives from the construction or upgrade, as determined by the state corporation commission upon application by the authority. In determining allocation of benefits and costs to utilities, the commission may take into account funding and cost recovery mechanisms developed by regional transmission organizations and shall take into account financial payments by transmission users and approved by the federal energy regulatory commission or regional transmission organization. Each electric public utility shall recover any such assessed costs from the utility's customers in a manner approved by the commission and each electric municipal or cooperative utility shall recover such assessed costs from the utility's customers in a manner approved by the utility's governing body;

(15) participating in and coordinating with the planning activities of the southwest power pool regional transmission organization, or its successor, and adjoining regional transmission organizations, or their successors; and

(16) participating in and coordinating with the planning activities of the southwest power pool regional reliability organization, or its successor, and adjoining regional reliability organizations, or their successors; and

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(17) establish and charge reasonable fees, rates, tariffs or other charges, unless costs are recoverable under paragraph (14), for the use of all facilities owned, financed or administered by it and for all services rendered by it, and, if all costs are not recovered under paragraph (14), such costs shall be recovered through assessments against any entity or entities requesting use of facilities owned, financed or administered by the authority or for all requested services provided by the authority, or both.

(b) On or before the first day of the regular legislative session each year, the authority shall submit to the governor and to the legislature a written report of the authority's activities for the preceding fiscal year. Such report shall include the report of any audit conducted pursuant to K.S.A. 2008 Supp. 74-99d10, and amendments thereto, of the preceding fiscal year.

(c) The authority shall continue until terminated by law. No such law terminating the authority shall take effect while the authority has bonds, debts or obligations outstanding unless adequate provision has been made for the payment or retirement of such bonds, debts or obligations. Upon dissolution of the authority, all property, funds and assets thereof shall be disposed of as provided by law.";

And by renumbering the remaining sections accordingly;

Also on page 21, in line 42, by striking all after "of"; in line 43, by striking all before "are" and inserting "this act";

On page 22, in line 5, by striking "and" and inserting a comma; also in line 5, after "66-1,184" by inserting "and 74-99d07";

On page 1, in the title, in line 14, by striking "and" where it appears the first time, and inserting a comma; also in line 14, after "66-1,184" by inserting "and 74-99d07"

S Sub for Sub HB 2014 be further amended by motion of Senator Marshall, on page 21, in line 42, by striking "sections 1 through 30, and amend-"; in line 43, by striking "ments thereto," and inserting "this act";

On page 22, after line 3, by inserting the following:

"New Sec. 31. (a) Any new coal-fired electricity generating facility in Kansas, construction of which commences on or after the effective date of this act, shall purchase Kansas coal for at least 5% of its coal requirements. For the purposes of this section, "Kansas coal" shall have the meaning ascribed thereto in K.S.A. 2008 Supp. 79-32,228, and amendments thereto.

(b) If the average cost, including all transportation costs, per ton during the preceding 12 months of the purchased Kansas coal requirement in this section would equal or exceed 125% of an out-of-state coal producer's average cost per ton, the purchased Kansas coal requirement of this section shall not apply to any new coal-fired electricity generating facility for that calendar year.

(c) If Kansas coal is not reasonably available for use, either due to insufficient supply, impractical means of transportation or any other contingencies, including, but not limited to, prior contractual obligations, the purchased Kansas coal requirement of this section shall not apply to any new coal-fired electricity generating facility for that calendar year.";

And by renumbering the remaining sections accordingly

S Sub for Sub HB 2014 be further amended by motion of Senator Apple, on page 21, in line 42, by striking "sections 1 through 30, and amend-"; in line 43, by striking "ments thereto," and inserting "this act";

On page 22, after line 3, by inserting the following:

"New Sec. 31. Sections 31 through 38, and amendments thereto, shall be known and may be cited as the compressed air energy storage act.

New Sec. 32. As used in the compressed air energy storage act:

(a) "Commission" means the state corporation commission.

(b) "Department" means the department of health and environment.

New Sec. 33. (a) Within 18 months after the effective date of this act, the commission shall establish rules and regulations establishing requirements, procedures and standards for the safe and secure injection of compressed air into storage wells, which shall include maintenance of underground storage of compressed air. Such rules and regulations shall include, but not be limited to:

(1) Site selection criteria;

(2) design and development criteria;

(3) operation criteria;

(4) casing requirements;

(5) monitoring and measurement requirements;

(6) safety requirements, including public notification;

(7) closure and abandonment requirements, including the financial requirements of subsection (d); and

(8) long-term monitoring.

(b) The commission may adopt rules and regulations establishing fees for permitting, monitoring and inspecting operators of compressed air energy storage wells and underground storage. Fees collected by the commission under this section shall be remitted by the commission to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the compressed air energy storage fund.

(c) The commission or the commission's duly authorized representative may impose on any holder of a permit issued pursuant to this section such requirements relating to inspecting, monitoring, investigating, recording and reporting as the commission or representative deems necessary to administer the provisions of this section and rules and regulations adopted hereunder.

 (\tilde{d}) Any company or operator receiving a permit under the provisions of the compressed air energy storage act shall demonstrate annually to the commission evidence, satisfactory to the commission, that the permit holder has financial ability to cover the cost of closure of the permitted facility as required by the commission.

(e) The commission may enter into contracts for services from consultants and other experts for the purposes of assisting in the drafting of rules and regulations pursuant to this section.

(f) Rules and regulations adopted under the compressed air energy storage act shall apply to any compressed air energy storage well, whether in existence on the effective date of this act or thereafter.

New Sec. 34. Within 18 months after the effective date of this act, the department shall establish rules and regulations establishing requirements, procedures and standards for the monitoring of air emissions coming from compressed air energy storage wells and storage facilities to ensure the wells and facilities comply with the Kansas air quality act.

New Sec. 35. The commission and the department may enter into a memorandum of understanding concerning implementation of the requirements and responsibilities under the compressed air energy storage act.

New Sec. 36. (a) The commission, upon a finding that a person has violated any provision of section 33, and amendments thereto, or rules and regulations adopted thereunder, may impose a penalty not to exceed \$10,000 per violation which shall constitute an economic deterrent to the violation for which it is assessed and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) No penalty shall be imposed pursuant to this section except after an opportunity for hearing upon the written order of the commission to the person who committed the violation. The order shall state the violation and the penalty to be imposed.

(c) Whenever the commission or the commission's duly authorized representative find that the soil or waters of the state are not being protected from pollution resulting from the storage of compressed air, the commission or the commission's duly authorized representative shall issue an order prohibiting such storage. Any person aggrieved by such order may request in writing, within 15 days after service of the order, a hearing on the order. Upon receipt of a timely request, a hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(d) Any action of the commission pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

New Sec. 37. (a) In performing investigations or administrative functions relating to prevention of pollution of the soil or waters of the state, the commission or the commission's duly authorized representative may enter any property or facility which is subject to the provisions of section 33, and amendments thereto, for the purpose of observing, monitoring, collecting samples, examining records and facilities to determine compliance or noncompliance with state laws and rules and regulations relating to air pollution, water pollution, soil pollution or public health or safety.

(b) The representatives of the commission shall have the right of ingress and egress upon any lands to clean up pollution from the storage of compressed air over which the commission has jurisdiction pursuant to section 33, and amendments thereto. Such representatives shall have the power to occupy such land if necessary to investigate and clean up such pollution or to investigate and plug any such compressed air energy storage well. Any representative entering upon any land to investigate and clean up such pollution or to investigate and plug any such compressed air energy storage well shall not be liable for any damages necessarily resulting therefrom, except damages to growing crops, livestock or improvements on the land. Upon completion of activities on such land, such representative shall restore the premises to the original contour and condition as nearly as practicable.

New Sec. 38. (a) (1) There is hereby established in the state treasury the compressed air energy storage fund. Such fund shall be administered by the commission in accordance with the provisions of this section for the purpose of administering the provisions of the compressed air energy storage act.

(2) The commission shall remit to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys received by the commission for the purposes of the compressed air energy storage act. Upon receipt of the remittance the state treasurer shall deposit the entire amount in the state treasury and credit it to the fund. The commission is authorized to receive from any private or governmental source any funds made available for the purposes of the compressed air energy storage act.

(3) All expenditures from the compressed air energy storage fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission or a person designated by the chairperson.

(b) The commission is authorized to use moneys from the compressed air energy storage fund to pay the cost of:

(1) All activities related to permitting activities, including, but not limited to, development and issuance of permits, compliance monitoring, inspections, well closures, underground storage closure, long-term monitoring and enforcement actions;

(2) review and witnessing of test procedures;

(3) review and witnessing of routine workover or repair procedures;

(4) investigation of violations, complaints, pollution and events affecting public health;

(5) design and review of remedial action plans;

(6) contracting for services needed to supplement the commission's staff expertise in facility investigations;

(7) consultation needed concerning remedial action at a permitted facility;

(8) mitigation of adverse environmental impacts;

(9) emergency or long-term remedial activities;

(10) legal costs, including expert witnesses, incurred in administration of the provisions of the compressed air energy storage act; and

(11) costs of program administration.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the compressed air energy storage fund interest earnings based on:

(1) The average daily balance of moneys in the compressed air energy storage fund for the preceding month; and

 $(\bar{2})$ the net earnings rate of the pooled money investment portfolio for the preceding months.

New Sec. 39. Any electric public utility, as defined in K.S.A. 66-101a, and amendments thereto, which after the effective date of this act is developing a new fossil fuel or nuclear baseload electricity generating facility in Kansas shall provide to any municipally owned or operated electric utility in Kansas or Kansas corporation organized under the electric cooperative act, K.S.A. 17-4601 et seq., and amendments thereto, an option to own or enter into a power purchase agreement to purchase, or a combination thereof, up to 15% of the rated capacity of the facility or 200 megawatts of power, whichever is less, which is not presently dedicated to Kansas consumers, from the new fossil fuel or nuclear baseload electricity generating facility. The aggregate amount of purchased power by all municipal utilities and cooperatives shall not exceed 200 megawatts. If the facility developer proceeds with construction of such generating facility, any municipally owned or operated electric utility in Kansas or corporation organized under the electric cooperative act, K.S.A. 17-4601 et seq., and amendments thereto, shall have six months from the date of issuance of the construction permit under the Kansas air quality act for such generating facility or nine months from the effective date of this act, whichever occurs first, to exercise the option by executing an agreement to purchase an ownership interest in or to enter into a power purchase agreement, or a combination thereof, for up to 15% of the rated capacity of the facility or 200 megawatts of power, whichever is less, from the facility developer upon the same terms and conditions as participants in the facility other than the facility developer. If more than one municipally owned or operated electric utility in Kansas or corporation organized under the electric cooperative act, K.S.A. 17-4601 et seq., and amendments thereto, exercises the option in this section, the available megawatts, in the absence of a mutual agreement otherwise, shall be allocated equally among the municipal utilities and cooperatives but no municipal utility or cooperative may exercise an option for less than 25 megawatts.

Sec. 40. K.S.A. 55-1,117 is hereby amended to read as follows: 55-1,117. (a) As used in this section, K.S.A. 65-171d and K.S.A. 55-1,118 through 55-1,122, and amendments thereto:

(1) "Company or operator" means any form of legal entity including, but not limited to, a corporation, limited liability company and limited or general partnerships.

(2) "Secretary" means the secretary of health and environment.

 $\frac{(2)}{(2)}$ (3) "Underground porosity storage" means the storage of hydrocarbons in underground, porous and permeable geological strata which have been converted to hydrocarbon storage.

(b) For the purposes of protecting the health, safety and property of the people of the state, and preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, the secretary of health and environment shall adopt separate and specific rules and regulations establishing requirements, procedures and standards for the following:

(1) Salt solution mining;

(2) the safe and secure underground storage of liquid petroleum gas and hydrocarbons, other than natural gas in underground porosity storage; and

(3) the safe and secure underground storage of natural gas in bedded salt.

(c) Such rules and regulations shall include, but not be limited to:

(1) Site selection criteria;

(2) design and development criteria;

(3) operation criteria;

(4) casing requirements;

(5) monitoring and measurement requirements;

(6) safety requirements, including public notification;

(7) closure and abandonment requirements, including the financial requirements of subsection (f); and

(8) long term monitoring.

(d) (1) The secretary may adopt rules and regulations establishing fees for the following services:

(A) Permitting, monitoring and inspecting salt solution mining operators;

(B) permitting, monitoring and inspecting underground storage of liquid petroleum gas and hydrocarbons, other than natural gas in underground porosity storage; and

(C) permitting, monitoring and inspecting underground storage of natural gas in bedded salt.

(2) The fees collected under this section by the secretary shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments

thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the subsurface hydrocarbon storage fund.

(e) The secretary or the secretary's duly authorized representative may impose on any holder of a permit issued pursuant to this section such requirements relating to inspecting, monitoring, investigating, recording and reporting as the secretary or representative deems necessary to administer the provisions of this section and rules and regulations adopted hereunder.

(f) Any company or operator receiving a permit under the provisions of this act shall demonstrate annually to the department of health and environment evidence, satisfactory to the department, that such permit holders have financial ability to cover the cost of closure of such permitted facility as required by the department.

(g) The secretary may enter into contracts for services from consultants and other experts for the purposes of assisting in the drafting of rules and regulations pursuant to this section.

(h) (1) For a period of two years from July 1, 2001, or until the rules and regulations provided for in paragraph (3) of subsection (a) (b)(3) are adopted, the injection of working natural gas into underground storage in bedded salt is prohibited, except that cushion gas may be injected into existing underground storage in bedded salt. Natural gas currently stored in such underground storage may be extracted.

(2) Any existing underground storage of natural gas in bedded salt shall comply with the rules and regulations adopted under this section prior to the commencement of injection of working natural gas into such underground storage.

(3) Rules and regulations adopted under paragraph (3) of subsection (a) (b)(3) shall be adopted on or before July 1, 2003.

(i) No hydrocarbon storage shall be allowed in any underground formation if water within the formation contains less than 5,000 milligrams per liter chlorides.";

And by renumbering the remaining sections accordingly;

Also on page 22, in line 4, after "19-101m," by inserting "55-1,117,";

In the title, on page 1, in line 13, after "19-101a," by inserting "55-1,117,"

S Sub for Sub HB 2014 be further amended by motion of Senator Lee, on page 21, after line 41, by inserting the following:

"Sec. 30. K.S.A. 2008 Supp. 74-99d14 is hereby amended to read as follows: 74-99d14. (a) Subject to the provisions of this act, the authority shall have the power to:

(1) Plan, finance, construct, develop, acquire, own, dispose of, contract for maintenance of and contract with electric public utilities, electric cooperative utilities or electric municipal utilities for operation of transmission facilities of the authority and any real or personal property, structures, equipment or facilities necessary or useful for the accomplishment of the purposes for which the authority was created, including the obtaining of permits and the acquisition of rights of way; and

(2) participate in partnerships or joint ventures with individuals, corporations, governmental bodies or agencies, partnerships, associations or other entities to facilitate any activities or programs consistent with the public purpose and intent of this act, including partnerships or joint ventures for the purpose of financing all or any portion of a project pursuant to subsection (a)(2) of K.S.A. 2008 Supp. 74-99d09, and amendments thereto.

(b) (1) Except as otherwise provided in this act, the authority shall not exercise any of the rights or powers granted to it in this section, if private entities are performing the acts, are constructing or have constructed the facilities or are providing the services contemplated by the authority and such private entities are willing to finance and own new infrastructure to meet an identified need and market.

(2) Prior to exercising any rights or powers granted to it in this section, the authority shall publish once in the Kansas register, and once in a newspaper and trade magazine in the area where the facilities or services are contemplated, a notice describing the acts, facilities or services contemplated by the authority and stating that private entities willing and able to perform the acts, finance and own and construct the facilities or provide the services described in the notice shall have a period of 90 days after the date of publication of the notice in the Kansas register within which to notify the authority of intention and ability to perform the acts, finance and construct the facilities or provide the services described in the notice. In the absence of notification by a private entity, the authority may proceed to

perform the acts, construct the facilities or provide the services originally contemplated. If a private entity has given notice of intention to perform the acts, finance and construct the facilities or provide the services contemplated by the authority, the authority may proceed to perform the acts, construct the facilities or provide the services originally contemplated if the private entity fails to commence performance within 180 days after the date of notification of the authority of its intention. Actions deemed to constitute commencement of performance of the acts, construction of the facilities or provision of the services within the required time shall include, but not be limited to, holding of public meetings on siting of facilities, acquisition of land or commencement of proceedings for condemnation of land, application to acquire any federal, state, local or private permits, certificates or other authorizations or approvals necessary to perform the acts, construct the facilities or provide the services.

(3) Notwithstanding commencement of performance of the acts, construction of the facilities or provision of the services by a private entity, if the authority is not satisfied with subsequent progress in performance of the acts, construction of the facilities or provision of the services, the authority may again give notice as provided in subsection (b)(2) with respect to completion of performance of the acts, construction of the facilities or provision of the services. In the absence of notification by a private entity willing and able to complete performance of the acts, construction of the facilities or provision of the services, the authority may proceed to complete performance. If a private entity has given notice of intention to complete performance, the authority may proceed to perform the acts, construct the facilities or provide the services if the private entity fails to complete performance within 180 days after the date of notice by the entity.

(c) The authority shall not operate or maintain transmission facilities.

(d) The authority shall exercise the rights and powers granted to it in this act only with respect to transmission facilities which the southwest power pool regional transmission organization, or its successor, has determined are compatible with plans adopted by such organization and, for electric transmission lines with an operating voltage of 60 kilovolts or more, which have been approved by such organization.

And by renumbering the remaining sections accordingly;

Also on page 21, in line 42, by striking all after "of"; in line 43, by striking all before "are" and inserting "this act";

On page 22, in line 5, by striking "and" and inserting a comma; also in line 5, after "66-1,184" by inserting "and 74-99d14";

On page 1, in the title, in line 14, by striking "and" where it appears the first time, and inserting a comma; also in line 14, after "66-1,184" by inserting "and 74-99d14"

S Sub for Sub HB 2014 be further amended by motion of Senator Emler, on page 21, after line 41, by inserting the following:

"New Sec. 30. (a) There is hereby established the Kansas energy resources commission. The commission shall be made up of the following members:

(1) Two members appointed by the speaker of the house of representatives;

(2) two members appointed by the president of the senate;

(3) one member appointed by the minority leader of the house of representatives;

(4) one member appointed by the minority leader of the senate; and

(5) one member appointed by the governor.

All appointments shall be from persons recognized for their breadth of knowledge on energy issues and initiatives. All appointments shall be residents of Kansas with expertise in the subject areas enumerated in subsection (d) and with either terminal professional degrees or at least 5 years of professional experience in the appropriate field. Except as provided in subsection (b), members shall be appointed for a term of four years and until a successor is appointed and qualifies. Nothing in this section shall be construed as prohibiting the reappointment of members to the commission.

(b) The appointing authorities indicated in subsection (a) shall make initial appointments on or before August 1, 2009. The terms of these initial appointments shall be as follows, as designated by the appointing authority:

(1) One appointment by the speaker of the house of representatives shall expire on June 30, 2010, and the other appointment shall expire on June 30, 2013;

(2) one appointment by the president of the senate shall expire on June 30, 2010, and the other appointment shall expire on June 30, 2013;

(3) one appointment by the minority leader of the house of representatives shall expire on June 30, 2011;

(4) one appointment by the minority leader of the senate shall expire on June 30, 2011; and

(5) one appointment by the governor shall expire on June 30, 2013.

(c) The member appointed by the speaker of the house of representatives whose term expires June 30, 2013 shall call the first meeting. The members of the commission shall choose their own chairperson, vice-chairperson and secretary-treasurer for the commission, who shall serve for terms of two years and are eligible for re-election.

(d) The commission is hereby granted such specific powers as are necessary to carry out the functions enumerated in this section. The commission shall submit annual reports of the activities of the commission to the governor and the legislature. A preliminary report shall be submitted on or before September 1, 2010. The commission shall:

(1) Develop strategies to maximize productive use of the existing resources in Kansas, including, but not limited to: water, coal, oil, natural gas, coal-bed methane, wind, solar, municipal and other waste, agricultural ground, bio-mass and such other energy resources as shall be identified by the commission members as having economic value to the state;

(2) identify means of sustaining and, if possible, increasing production and use of identified resources;

(3) identify emerging technologies and technological opportunities to sustain or increase production and make better use of existing and potential resources, and recommend state investments in specific research projects. Development of sustainable policies shall include conservation, enhanced production technologies and other strategies;

(4) investigate and research scientifically derived literature on public health impacts of emissions from all natural and man-made sources and the technological ability to capture or reduce such emissions.

 $(\mathbf{5})$ investigate prospective permanent funding sources for energy sustainability research; and

(6) pursue such other issues as the council members may deem necessary.

(e) The commission shall hold meetings at least once in each quarter, and additional meetings as deemed necessary. Meetings shall be called and held at the discretion of the chairperson, or upon written request of a majority of the members of the commission. A majority of the members of the commission shall constitute a quorum for the exercise of powers conferred upon the commission. Members of the commission attending meetings of such commission, or subcommittee meetings thereof as authorized by the commission, shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(f) In the event of a vacancy in the membership of the commission by reason of expiration of any member's term of office, a successor of like qualifications shall be appointed in the manner and for the term of office prescribed herein. In the event of a vacancy in the membership of the commission, before the expiration of the member's term, a successor of like qualifications shall be appointed by the appointing authority for the remainder of the unexpired term.

(g) The commission may receive and expend moneys appropriated to the commission from the public service regulation fund and received from any other source, whether public or private, to further the purposes of this section.

(h) The staff of the office of the revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be requested by the energy resources commission and authorized by the legislative coordinating council. The state corporation commission shall also provide such assistance as may be requested.";

And by renumbering the remaining sections accordingly;

Also on page 21, in line 42, by striking "sections 1 through 30 and amend-"; in line 43, by striking "ments thereto," and inserting "this act" and **S Sub for Sub HB 2014** be passed as amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and **SB 108, SB 147, SB 153, SB 174, SB 253; S Sub for Sub HB 2014; HB 2147** were advanced to Final Action and roll call.

SB 108, An act concerning the economic revitalization and reinvestment act; relating to the secretary of commerce and the Kansas development finance authority; authorizing the issuance of bonds for certain economic development projects; amending K.S.A. 2008 Supp. 74-50,136 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 147, An act concerning the department of health and environment; relating to HIV screening for pregnant women and newborn children; rules and regulations.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Ostmeyer, Pyle.

The bill passed, as amended.

SB 153, An act concerning motor vehicles; concerning the regulation thereof; relating to motor carriers; amending K.S.A. 2008 Supp. 66-1,108 and 66-1,109 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 174, An act concerning group life insurance; removing mandatory participation requirements; amending K.S.A. 2008 Supp. 40-433 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 253, An act concerning zoning; amending K.S.A. 12-757 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Holland, Kelsey, Lee, Lynn, Marshall, Masterson, Morris, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Francisco, Hensley, Huelskamp, Kelly, Kultala, McGinn, Ostmeyer, Pyle.

The bill passed, as amended.

S Sub for Sub HB 2014, An act concerning energy; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 19-101a, 55-1,117, 65-3012 and 66-104d and K.S.A. 2008 Supp. 65-3005, 65-3008a, 66-1,184, 74-99d07 and 74- 99d14 and repealing the existing sections; also repealing K.S.A. 19-101m.

On roll call, the vote was: Yeas 31, Nays 9, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Haley, Huelskamp, Kelsey, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Faust-Goudeau, Francisco, Hensley, Holland, Kelly, Kultala, Schodorf, Steineger, Wysong.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: Kansas needs a forward-looking comprehensive energy plan to meet the future needs of our citizens and position us to take advantage of upcoming opportunities rather than tie us to increasing expenditures associated with carbon production. Much of **S** Sub for Sub HB 2014 is not forward looking, it is not comprehensive, and does not comprise a plan. The bill does not establish a clear and coherent direction for the department of administration with regard to energy efficient performance standards for state owned and leased facilities. The change in the definition of an electric cooperative will allow removal of protections for individual ratepayers. The discussion on the bill started with energy policy but turned into a discussion about the construction of coal plants. This year the Kansas Senate acted to clean up indoor air; we should be doing the same for our outdoor air.— MARCI FRANCISCO

Senator Hensley requests the record to show he concurs with the "Explanation of Vote" offered by Senator Francisco on **S Sub for Sub HB 2014**.

HB 2147, An act regulating traffic; concerning the removal of certain vehicles from highways; amending K.S.A. 8-1603 and 8-1605 and K.S.A. 2008 Supp. 8-2118 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, March 6, 2009.

Journal of the Senate

THIRTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Friday, March 6, 2009—8:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with twenty-eight senators present. Senators Barnett, Brungardt, Colyer, Donovan, Haley, Kelsey, Masterson, Owens, Pyle, Schodorf, Steineger and Wagle were excused.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

In two former invocations I thanked You for LOVE and JOY, two fruits of the Spirit. Today I thank You for PEACE, another fruit of the Spirit.

Love is the attitude Which we should express For You and our neighbors, For whom we are blessed.

Joy is celebration For all that You do, And the close relationship We have with You.

Peace is serenity Which we shouldn't think odd, All three are products of one nation under God.

Blessed are the peacemakers, Who trod this sod, And help us remain One nation under God.

When the Holy Spirit Within us dwells, All three fruits Are ours as well.

And for this I thank You in the Name of Jesus Christ.

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and resolutions were referred to Committees as indicated: Judiciary: **SCR 1612, SCR 1613**. Ways and Means: **SB 303**. On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Monday, March 9, 2009.

Journal of the Senate

THIRTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Monday, March 9, 2009—2:30 p.m.

The Senate was called to order by Vice President John Vratil.

The roll was called with thirty-six senators present.

Senators Morris, Hensley, McGinn and Steineger were excused.

Vice President Vratil introduced as guest chaplain, Pastor Jim Sanborn, Principal, Emporia Christian School, Emporia, Kansas, who delivered the invocation.

Dear Heavenly Father,

We come before you, thanking you for being a mysterious, wonderful, awesome God. We recognize that you are the one who has everything in this world under your control. We value your wisdom and discernment in the decisions that have to be made in this room today. We ask that you put a hedge about this building. May each senator be guided by Scriptural principles. May they sense your presence as they make agonizing decisions about our state's future. May they be unified for the good of the people of Kansas.

We ask your blessing upon school teachers in our state who need wisdom to inspire students to achieve their full potential. We thank you for creating each one of us with special gifts and talents.

Thank you for allowing us to be born and live in this great nation. Thank you for your provision in our daily lives. We ask for the peace that only you can give. We pray for the peace of Jerusalem.

In Jesus name we pray amen.

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 304, An act making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012 and June 30, 2013, and June 30, 2014, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2008 Supp. 2-223, 12-5256, 55-193, 75-6702, 76-7,107, 79-2959, 79-2964, 79-2978, 79-2979, 79-3425i, 79-4801 and 82a-953a and repealing the existing sections, by Committee on Ways and Means.

SB 305, An act concerning the Kansas tort claims act; relating to charitable health care providers; amending K.S.A. 2008 Supp. 75-6102 and repealing the existing section, by Committee on Ways and Means.

SB 306, An act concerning the Kansas fireworks act; creating the fireworks and explosives fund; amending K.S.A. 2008 Supp. 31-505 and repealing the existing section, by Committee on Ways and Means.

SB 307, An act concerning aboveground storage tanks; duties of the state fire marshal; amending K.S.A. 2008 Supp. 65-34,136 and repealing the existing section, by Committee on Ways and Means.

SB 308, An act concerning state agencies; relating to the administrative fee charged to agencies; amending K.S.A. 2008 Supp. 75-3170a and repealing the existing section, by Committee on Ways and Means.

SB 309, An act making and concerning appropriations for the fiscal years ending June 30, 2010, and June 30, 2011, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Ways and Means.

COMMUNICATIONS FROM STATE OFFICERS

SUPREME COURT OF KANSAS

March 5, 2009

Pursuant to KSA 8-1008, Howard Schwartz, Judicial Administrator, submitted the 2008 Annual Report of the Statement of the Alcohol Drug Safety Action Program.

The Vice President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

MESSAGE FROM THE HOUSE

Announcing the House nonconcurs in Senate amendments to **Senate Substitute for Substitute HB 2014**, requests a conference, and appoints Representatives C. Holmes, Moxley and Kuether as conferences on the part of the House.

ORIGINAL MOTION

On motion of Senator Apple, the Senate acceded to the request of the House for a conference on **S Sub for Sub HB 2014**.

The Vice President appointed Senators Apple, Petersen and Lee as conferees on the part of the Senate.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Barnett the Senate nonconcurred in the House amendments to **SB 102** and requested a conference committee be appointed.

The Vice President appointed Senators Barnett, V. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **H Sub for SB 238** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, D. Schmidt and Faust-Goudeau as a conference committee on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1845-

A RESOLUTION congratulating Avery Clifton for being the Gatorade Cross Country Runner of the Year for Kansas.

WHEREAS, Washburn Rural High School Junior Avery Clifton was named the Gatorade Cross Country Runner of the Year for Kansas; and

WHEREAS, Gatorade State Players of the Year are selected on the basis of outstanding athletic excellence accompanied by high standards of academic achievement and exemplary personal character demonstrated on and off the field; and

WHEREAS, Avery Clifton was the 6A State Champion this year, defeating the defending 3200 meter track champion and being the only runner in the state that day to run under 15 minutes; and

WHEREAS, Avery's lowest finish in 7 races this year was 5th at the Rim Rock Invitational, in which she was the first Kansas runner to finish; and

WHEREAS, Some of the many awards and honors she has received include All City, All State, Academic All-State Cross Country and winning 6th place in singles at the State Tennis Championship; and

WHEREAS, Avery Clifton managed to maintain a 4.0 grade point average while performing at an exceptionally high level in both cross country and tennis; and

WHEREAS, Some of Avery Clifton's other achievements include being nominated for the National Young Leaders State Conference and being named Student of the Month in October 2006 for her dedication and responsibility and the example she sets through her work ethic; and

WHEREAS, Avery Clifton's ability to maintain exceptional grades while excelling at two difficult and competitive sports make her accomplishments truly extraordinary: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Avery Clifton for being the Gatorade Cross Country Runner of the Year for Kansas and for her outstanding athletic and scholastic achievements; and

Be it further resolved: That the Secretary of the Senate be directed to provide six enrolled copies of this resolution to Senator Vicki Schmidt.

On emergency motion of Senator V. Schmidt SR 1845 was adopted unanimously.

Avery was accompanied by Bob and Andrea Clifton, her parents, Mr. and Mrs. Keith Clifton and Mr. and Mrs. Paul Moore, her grandparents, as well as Penny Lane and Coach Scott Shufelberger. Senator V. Schmidt congratulated Avery Clifton for her accomplishments and Senators honored her with a standing ovation.

Senators Barnett, Abrams, Apple, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle and Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1846-

A RESOLUTION congratulating and commending the 2009 Kansas Master Teachers.

WHEREAS, Seven of the state's best teachers have been selected as Kansas Master Teachers for 2009. The seven were honored on February 25 at Emporia State University, the sponsor of the program, with a day of tours, seminars and receptions; and

WHEREAS, The 2009 Kansas Master Teachers are Kenneth J. Bingman, an honors and AP biology instructor at Blue Valley West High School in Blue Valley; Lynne "Christy" Boerner, a kindergarten teacher at Central Elementary School in Wamego; Barbara Duffer Cole, a 7th and 8th grade art and English language learner teacher at Shawnee Heights Middle School in Tecumseh; Beverly Steele Furlong, a kindergarten teacher at Sunflower Elementary School in Gardner-Edgerton; Jeline Harclerode, a CONNECT teacher at Emporia Middle School in Augusta and Sarah Smith Meadows, a K-5 numeracy coach at Scott Computer Technology Magnet School in Topeka; and

WHEREAS, Emporia State University established the Kansas Master Teacher Awards in 1953 and presents the awards annually to teachers described as having "served the profession long and well and who also typify the good qualities of earnest and conscientious teachers"; and

WHEREAS, Local teacher associations, educational organizations and school faculties nominate candidates for the awards and a committee representing educational organizations from across Kansas selected the 2009 winners: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the seven 2009 Kansas Master Teachers for demonstrated excellence in their profession and devotion to the children of Kansas; and

Be it further resolved: That the Secretary of the Senate provide Senator Jim Barnett with seven enrolled copies of this resolution for presentation to the 2009 Kansas Master Teachers.

On emergency motion of Senator Barnett SR 1846 was adopted unanimously.

MARCH 9, 2009

Senators Barnett, Colyer, Pyle, Kelly and Brownlee reviewed areas of expertise and accomplishments of the teachers from their respective districts. The teachers present for the resolution were introduced and honored by a standing ovation.

REPORT ON ENGROSSED BILLS

SB 147, SB 153, SB 253 reported correctly engrossed March 6, 2009.

REPORT ON ENROLLED BILLS

SB 14, SB 82, SB 219 reported correctly enrolled, properly signed and presented to the Governor on March 9, 2009.

Also, **SR 1842**, **SR 1843**, **SR 1844**, **SR 1845**, **SR 1846** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 9, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **HB 2004** be passed. Committee on **Ways and Means** recommends **SB 204** be passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, March 10, 2009.

Journal of the Senate

FORTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS Tuesday, March 10, 2009—2:30 p.m.

The Senate was called to order by Vice President John Vratil. The roll was called with thirty-six senators present. Senators Hensley, Masterson, Morris and Steineger were excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Two of Your most faithful servants in the history of our nation were named Webster: Daniel, for what he spoke.

Noah, for what he wrote.

Daniel served as Secretary of State for three presidents: Harrison, Tyler, and Fillmore. He is considered one of the greatest orators in American history.

I marvel at his prediction of the future of our country. He stated this sometime in the first half of the 19th century: "If we abide by the principles taught in the Bible, our country will go on prospering and to prosper; but if we and our posterity neglect its instructions and authority, no man can tell how sudden a catastrophe may overwhelm us and bury all our glory in profound obscurity."

Noah was the author of Webster's Dictionary. In 1832 he published his *History of the United States of America* in which he wrote: "The moral principles and precepts contained in the Scriptures ought to form the basis of all of our civil constitutions and laws... All the miseries and evils which men suffer from vice, crime, ambition, injustice, oppression, slavery and war, proceed from their despising or neglecting the precepts contained in the Bible."

Thank you, Lord, for raising up these two men in the 19th century who understood that obedience to the precepts of the Bible is necessary for a nation to maintain its greatness.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 310, An act concerning sexually violent predators; relating to placement into the community; amending K.S.A. 2008 Supp. 59-29a11 and repealing the existing section, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated: Federal and State Affairs: **SB 307.**

Public Health and Welfare: **SB 305**. Ways and Means: **SB 304**, **SB 306**, **SB 308**, **SB 309**.

COMMUNICATIONS FROM STATE OFFICERS

SENATE PRESIDENT May 23, 2008

In accordance with KSA 2007 Supp. 75-7401, Stephen R. Morris, Senate President, reappointed Joe Tilghman to the Kansas Health Policy Authority.

SPEAKER HOUSE OF REPRESENTATIVES

July 29, 2008

In accordance with KSA 2007 Supp. 75-7401, Melvin Neufeld, Speaker, Kansas House of Representatives, re-appointed Garen Cox to the Kansas Health Policy Authority for a term of four years which shall expire March 15, 2012.

The Vice President announced the above appointments are on file in the office of the Secretary of the Senate and are available for review at any time.

MESSAGE FROM THE HOUSE

The House accedes to the request of the Senate for a conference on $SB\ 102$ and has appointed Representatives Landwehr, Crum and Flaharty as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 238** and has appointed Representatives Neufeld, Kiegerl and Loganbill as conferees on the part of the House.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Brownlee introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1847-

A RESOLUTION recognizing the Kansas Small Business Development Center's 2008 Emerging and Existing Businesses of the Year.

WHEREAS, The Kansas Small Business Development Center's Business of the Year awards are designed to recognize KSBDC clients for superior performance; and

WHEREAS, The KSBDC regional directors and staff select eight Emerging Business of the Year award recipients and eight Existing Business of the Year award recipients; and

WHEREAS, Emerging Business of the Year award recipients have demonstrated major accomplishments while establishing and growing the business, overcome significant obstacles, shown growth and impact based on the KSBDC Economic Impact Tracking spreadsheet, a clear vision for the future of the business and something unique to offer to their community; and

WHEREAS, Existing Business of the Year award recipients have achieved major accomplishments, overcome significant obstacles, shown growth and impact based on the KSBDC Economic Impact Tracking spreadsheet, a record of profitability and demonstrated good corporate citizenship through community contributions; and

WHEREAS, The 2008 KSBDC Emerging Businesses of the Year are Eagle Creek Vineyards, a vineyard in Olpe, Kansas, owned by Jo Ann Kuhlmann; Flower Cottage, a retail florist and gift shop in Quinter, Kansas, owned by Kathy and Robert Kuntz; Local Burger, a local food restaurant in Lawrence, Kansas, owned by Hilary Brown; Longford Water Company, LLC, a bottled water company in Longford, Kansas, owned by Kim and Wava Kramer; Music House School of Music, a music education business in Overland Park, Kansas, owned by Aaron Sizemore and Katrinka Riggs; New Boston Creative Group, LLC, a marketing and communications company in Manhattan, Kansas, owned by Kristin Brighton, Susan Religa and Lisa Sisley; Oakview Estates Assisted Living, an assisted living facility in Frontenac, Kansas, owned by Mark Scales and Jason Lahr; and Oswalt Appraisals, a real estate appraisal company in Garden City, Kansas, owned by Alan Oswalt; and

WHEREAS, The 2008 KSBDC Existing Businesses of the Year are Acorn Valley Custom Cabinetry, a cabinetry business in Thayer, Kansas, owned by Jim Houston and Bob Greif; Avon Beauty Center, a retail cosmetics business in Overland Park, Kansas, owned by Elizabeth and George Demas; EmbroidMe, an embroidery business in Dodge City, Kansas, owned by Gavin and Kim Unruh; The Furniture Look, Inc., a retail furniture store in Hays, Kansas, owned by Karen Dreiling; Howard Pine's Garden Center & Greenhouses, a retail garden center in Lawrence, Kansas, owned by Gerald Pine; Morrill Collision Repair, Inc., a collision repair and service center in Morrill, Kansas, owned by Lonnie and Melanie Teeter; Pet Sitting Pal, a pet sitting business in Emporia, Kansas, owned by Reneé Flott; and ServiceMaster Clean In a Wink, a residential and commercial cleaning service company in Wichita, Kansas, owned by Jerry E. Winkley; and

WHEREAS, The KSBDC Businesses of the Year serve as examples of the creativity and diversity that the many small businesses in Kansas provide to their communities: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize the Kansas Small Business Development Center's 2008 Emerging and Existing Businesses of the Year and wish all of them continued success in the future; and

Be it further resolved: That the Secretary of the Senate be directed to provide 17 enrolled copies of this resolution to Senator Karin Brownlee.

On emergency motion of Senator Brownlee SR 1847 was adopted unanimously.

Senator Brownlee recognized small business owners who were guests.

POINT OF PERSONAL PRIVILEGE

Senator Ostmeyer rose on a point of personal privilege to introduce the senior class of Northern Valley High School and their teacher, Jason Dibble.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2121**, as amended by House Committee of the Whole, be amended on page 26, in line 8, by striking "such fee shall not exceed"; in line 10, by striking "\$25" and inserting "on an after July 1, 2015, such fee shall not exceed \$10";

On page 34, after line 26, by inserting the following:

"Sec. 32. K.S.A. 2008 Supp. 65-778 is hereby amended to read as follows: 65-778. (a) Any person who engages in business as a dairy manufacturing plant shall first apply for and obtain a dairy manufacturing plant license from the secretary and shall pay a license fee of \$120, or commencing July 1, 2002, and ending June 30, 2010 2015, a license fee of \$155.

(b) Any person who engages in business as a distributor of milk, milk products or dairy products shall first apply for and obtain a milk distributor license from the secretary and shall pay a license fee of \$120, or commencing July 1, 2002, and ending June 30, 2010 2015, a license fee of \$155. No milk distributor license shall be required for a licensed dairy manufacturing plant which distributes only those products which it manufactures.

(c) Any person who engages in business as a milk hauler shall first apply for and obtain a milk hauler license from the secretary and shall pay a license fee of \$25 or commencing July 1, 2002, and ending June 30, 2010 2015, a license fee of \$35. As part of the application, the secretary may require the applicant to be tested regarding proper procedures for sampling, testing and weighing milk or cream and state laws and rules and regulations.

(d) Any person who operates a milk or cream transfer station or milk or cream receiving station shall first apply for and obtain a milk or cream station license from the secretary and shall pay a license fee of \$50, or commencing July 1, 2002, and ending June 30, 2010 2015, a license fee of \$65.

(e) Any person who engages in business as a manufacturer of single service dairy containers or manufacturer of single service dairy container closures shall first apply for and obtain a single service manufacturing license from the secretary and shall pay a license fee of \$50, or commencing July 1, 2002, and ending June 30, 2010 2015, a license fee of \$65.

(f) The dairy manufacturing plant license, milk distributor license, milk or cream station license and single service manufacturing license shall expire on December 31 of the year for which it was issued unless suspended or revoked by the secretary pursuant to this act. The milk hauler license shall expire on June 30 following the date of issuance unless suspended or revoked by the secretary pursuant to this act.

(g) No license issued under this section shall be transferable. No license shall be renewed if any assessments or fees required under this act are delinquent.

(h) Each applicant for a license shall submit an application on a form supplied by the secretary accompanied by the license fee. All licenses shall be conspicuously displayed in the applicant's place of business.

Sec. 33. K.S.A. 2008 Supp. 65-781 is hereby amended to read as follows: 65-781. The following fees for the statewide system of milk inspection and regulatory services are hereby established:

(a) A fee of \$.01, or commencing July 1, 2002, and ending June 30, 2010 2015, a fee of \$.015 for each 100 pounds of milk produced by milk producers under Kansas grade A inspection shall be paid. Each producer is hereby charged with such fee which shall be paid to the milk producers' cooperative, milk processor or milk distributor to whom the milk is sold or delivered. Each cooperative, processor or distributor is hereby charged with the duty of collecting such fees which shall be remitted to the secretary.

(b) A fee of \$.01, or commencing July 1, 2002, and ending June 30, 2010 2015, a fee of \$.015 for each 100 pounds of packaged grade A pasteurized milk or milk products sold in Kansas at retail to the final consumer shall be paid. Each distributor is hereby charged with such fee which shall be remitted to the secretary.

(c) A fee of \$.01, or commencing July 1, 2002, and ending June 30, 2010 2015, a fee of \$.015 per 100 pounds or fraction thereof of grade A raw milk for pasteurization delivered to a milk processor within the state of Kansas which is processed into grade A milk or grade A milk products shall be paid. Each milk processor is hereby charged with such fee which shall be remitted to the secretary.

(d) A milk fee of \$.01, or commencing July 1, 2002, and ending June 30, 2010 2015, a fee of \$.015 per 100 pounds of milk or cream for manufacturing purposes produced by milk producers under Kansas manufacturing grade milk inspection shall be paid. Each producer is hereby charged with such fee which shall be paid to the milk producers' cooperative, dairy manufacturing plant or any other person to whom the milk or cream for manufacturing purposes is sold or delivered. Each cooperative, dairy manufacturing plant or other person is hereby charged with the duty of collecting such fees which shall be remitted to the secretary.

(e) A fee of \$.0075, or commencing July 1, 2002, and ending June 30, 2010 2015, a fee of \$.01 per 100 pounds of Kansas produced milk or cream for manufacturing purposes or other Kansas produced milk delivered to a dairy manufacturing plant shall be paid on all Kansas milk used in the manufacturing of dairy products. As used in this subsection, the term dairy products shall not include any frozen dairy dessert or frozen dairy dessert mix. Each dairy manufacturing plant shall pay such fee which shall be remitted to the secretary.

(f) In lieu of the fee prescribed in subsection (e), a fee of \$1, or commencing July 1, 2002, and ending June 30, 2010 2015, a fee of \$1.50 per thousand gallons of frozen dairy dessert or frozen dairy dessert mix shall be paid by the manufacturer thereof. Each manufacturer of frozen dairy dessert or frozen dairy dessert mix is hereby charged with such fee which shall be remitted to the secretary. Frozen dairy dessert mix which is further processed into the corresponding frozen dairy dessert by the manufacturer of the frozen dairy dessert mix shall not be subject to the fee required by this subsection.

(g) A fee of \$1, or commencing July 1, 2002, and ending June 30, 2010 2015, a fee of \$1.50 per thousand gallons of frozen dairy dessert or frozen dairy dessert mix imported for retail sale in Kansas shall be paid by the milk distributor who imports these products.

(h) If any fee computed pursuant to subsection (a) through (e) is less than \$2.50, then the sum of \$2.50 shall be paid in lieu of the computed fee. If any fee computed pursuant to subsection (f) or (g) is less than 7.50, a minimum fee of 7.50 shall be paid in lieu of the computed fee.

(i) All fees established herein shall be paid to the secretary in the following manner:

(1) The fees established in subsections (a) through (e) shall be remitted on or before the 30th day of each month for the calendar month immediately preceding and shall be accompanied by a report, in the form prescribed by the secretary, indicating the quantities upon which the remittance is based.

(2) The fees established in subsections (f) and (g) shall be remitted on April 30, July 31, October 31 and January 31 for the three calendar months immediately preceding and shall be accompanied by a report, in the form prescribed by the secretary, indicating the quantity of frozen dairy dessert or frozen dairy dessert mix upon which the remittance is based.

(j) Any person who fails to remit all or any part of the required fee or to submit the required report by the date due may be assessed an additional charge equal to 1% of the amount of delinquent fees for each day after the date due, or \$5, whichever amount is greater.";

And by renumbering the remaining sections accordingly;

Also on page 34, in line 31, by striking "and 2-3309" and inserting ", 2-3309, 65-778 and 65-781";

In the title, in line 13, by striking "of the department of agriculture"; also in line 13, by striking "concerning" and inserting "fees;"; also in line 13, by striking "such pro-"; in line 14, by striking "grams, definitions" and inserting "milk and dairy products"; in line 18, by striking "and 2-3309" and inserting ", 2-3309, 65-778 and 65-781"; and the bill be passed as amended.

Committee on Education recommends SB 290; HB 2003, HB 2197 be passed.

Committee on Federal and State Affairs recommends SB 54 be passed.

Also, **SB 224** be amended on page 1, in line 13, by striking "addition to" and inserting "lieu of"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 241** be amended on page 3, in line 13, preceding the period by inserting ", in accordance with standards established by the American institute of certified public accountants";

On page 11, in line 32, by striking "or", where it appears for the second time; in line 35, by striking the period and inserting "; or

(C) services performed by an individual licensed as a real estate broker or salesperson pursuant to K.S.A. 58-3034 et seq., and amendments thereto, while providing any real estate brokerage services as defined under subsection (f) of K.S.A. 58-3035, and amendments thereto.";

On page 15, preceding line 35, by inserting the following:

 $``(v)\ Request that a consumer transfer any portion of such consumer's ownership interest in a distressed property to a trust.$

(w) Take any form of ownership interest in a distressed property pursuant to a distressed property consulting agreement or require that any form of ownership interest be transferred to a related interest of the registrant.

(x) Make any inference to a consumer that entering into a distressed property consulting services agreement will result in the consumer being allowed to remain in such consumer's home.

(y) Make any inference to a consumer that entering into a distressed property consulting agreement will result in an improved credit rating.

(z) Receive any compensation prior to the completion of all activities described in a distressed property consulting agreement.";

And the bill be passed as amended.

Committee on Local Government recommends HB 2157 be passed.

Committee on **Transportation** recommends **HB 2188**, as amended by House Committee, be passed.

Committee on **Ways and Means** recommends **HB 2265** be amended on page 1, in line 22 by striking "three" and inserting "two"; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator McGinn the following report was adopted:

Recommended: SB 223; HB 2023, HB 2068, HB 2091, HB 2142; Sub HB 2339 be passed

SB 212 be amended by motion of Senator Brungardt on page 3, before line 1, by inserting the following:

"Sec. 2. K.S.A. 2008 Supp. 41-348 and 41-349 are hereby repealed."; And by renumbering the remaining section accordingly;

On page 1, in the title, in line 9, after "wines" by inserting "; repealing K.S.A. 2008 Supp. 41-348 and 41-349"

SB 212 be further amended by Senator Brungardt on page 5, after line 11 by inserting the following:

"(2) Drinking establishments that are immediately adjacent to, or located within the licensed premises of a special event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may request that the drinking establishment's licensed premises be extended into and made a part of the licensed premises of the special event for the duration of the temporary permit issued for such special event.

(3) All licensees selling alcoholic liquor for consumption on the premises of a special event for which a temporary permit has been issued shall be jointly and severally liable for violations of all laws governing the sale and consumption of alcoholic liquor."; and by renumbering the remaining paragraph accordingly, and **SB 212** be passed as amended.

SB 262 be amended by motion Senator Brungardt on page 7, in line 18, by striking "state general fund" and inserting "emergency medical services operating fund established by K.S.A. 65-6151, and amendments thereto", and **SB 262** be passed as amended.

SB 213 be amended by adoption of the committee amendments, be further amended by motion of Senator Schodorf on page 5, after line 11 by inserting the following:

"(2) Drinking establishments that are immediately adjacent to, or located within the licensed premises of a special event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may request that the drinking establishment's licensed premises be extended into and made a part of the licensed premises of the special event for the duration of the temporary permit issued for such special event.

(3) All licensees selling alcoholic liquor for consumption on the premises of a special event for which a temporary permit has been issued shall be jointly and severally liable for violations of all laws governing the sale and consumption of alcoholic liquor."; and by renumbering the remaining paragraph accordingly, and **SB 213** be passed as further amended.

Senator Schodorf withdrew a prior amendment on SB 213.

HB 2007 be passed over and retain a place on the calendar.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, March 11, 2009.

Journal of the Senate

FORTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, March 11, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

In previous prayers I've dealt with Love and Joy and Peace The fourth fruit of the Spirit Is PATIENCE that won't cease.

In scripture it is used to mean Your attitude, Lord, toward us. You exercise much patience And neither fuss nor "cuss".

The great preacher, Chrysostom, Said it's the grace of a man Who refuses to avenge himself When obviously he can.

One writer says it's persistent patience Which refuses to surrender in defeat, Which continues to keep on trying, Until the victory is complete.

What does patience mean to us Who have a deficit to fill, When compromise is difficult, And progress is uphill?

We must be patient with each other, And debate with some constraint; To be grateful when they're agreeable, And be patient when they ain't!

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

POINT OF PERSONAL PRIVILEGE

Senator Kultala rose on a point of personal privilege to introduce, on behalf of herself and Senator Holland, the 2008-2009 Class of Southern Leavenworth County Leadership Development group. This year's class has 16 students, representing a mix of professionals from various businesses and two high school students. They represent the communities of Basehor, Tonganoxie, Lansing and Linwood.

Senator Apple rose on a point of personal privilege to introduce the Miami County Leadership Class.

Senator Emler rose on a point of personal privilege to introduce the Hope High School Senior Government Class and its teacher.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 311, An act concerning the state budget; state general fund and special revenue fund expenditures, transfers and ending balance requirements; reduction and allotment procedures; economic impact statements and fiscal note updates for legislation; amending K.S.A. 75-3722 and 75-6704 and repealing the existing sections, by Committee on Ways and Means.

SB 312, An act concerning property taxation; relating to public utilities; natural gas inventories; amending K.S.A. 2008 Supp. 79-5a01 and repealing the existing section, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Ways and Means: SB 310.

REFERRAL OF APPOINTMENTS

The following appointments made by the Speaker of the House and Senate President and submitted to the senate for confirmation, were referred to Committee as indicated:

By the Speaker of the House:

Member, Kansas Health Policy Authority, Garen Cox, effective upon the date of confirmation by the Senate to serve a term of four years.

(Ways and Means)

By the President of the Senate:

Member, Kansas Health Policy Authority, Joe Tilghman, effective upon the date of confirmation by the Senate to serve a term of four years.

(Ways and Means)

COMMUNICATIONS FROM STATE OFFICERS

KANSAS HUMAN RIGHTS COMMISSION

March 6, 2009

In accordance with KSA 44-1004 (13), William V. Minner, Executive Director, submitted the Annual Report for the Fiscal Year 2008, July 1, 2007 through June 30, 2008.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of SB 46, SB 77, SB 187.

Also, announcing the appointment of Representative Knox to replace Representative Moxley as a conferee on **Senate Substitute for Substitute 2014.**

FINAL ACTION ON CONSENT CALENDAR

HB 2045 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

HB 2045, An act designating bridge no. 85 on United States highway 166 in Labette county as the veterans memorial bridge.

U.S. highway 166 in Labette county as the veterans memorial bridge.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

SB 212, An act concerning alcoholic beverages; concerning shipment of wines; repealing K.S.A. 2008 Supp. 41-348 and 41-349, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Pyle.

The bill passed, as amended.

SB 213, An act concerning alcoholic liquor; regarding consumption of alcoholic liquor in public; amending K.S.A. 2008 Supp. 41-719 and 41-2645 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Kelsey, Pyle, Reitz.

The bill passed, as amended.

SB 223, An act concerning the emergency medical services board; subpoena authority; amending K.S.A. 65-6130 and K.S.A. 2008 Supp. 65-6111 and repealing the existing sections, was considered on final action.

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

Yeas: Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wysong.

Nays: Abrams, Apple, Huelskamp, Ostmeyer, Pilcher-Cook, Pyle, Vratil. The bill passed.

SB 262, An act concerning emergency medical services; scope of practice of certain attendants; titles of certain attendants; amending K.S.A. 19-4608, 21-2511, 44-1204, 65-6121, 65-6129c, 65-6135, 65-6144, 65-6145 and 66-1810 and K.S.A. 2008 Supp. 8-1001, 65-6001, 65-6112, 65-6119, 65-6120, 65-6124, 65-6129, 75-4364 and 80-2518 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

HB 2023, An act relating to motor carriers; concerning enforcement of certain state corporation commission orders, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2068, An act concerning real estate brokers and salespersons; relating to licensure; amending K.S.A. 2008 Supp. 58-3035, 58-3046a, 58-3050, 58-3062, 58-3080, 58-3082, 58-3083, 58-3084, 58-3085 and 58-3086 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2091, An act relating to manufactured housing; concerning modular homes; amending K.S.A. 58-4203 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2142, An act concerning licensure and continuing education requirements for certain trades and crafts; amending K.S.A. 2008 Supp. 12-1509, 12-1526 and 12-1542 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

Sub HB 2339, An act concerning certified public accountants; relating to licensure, examination, registration and peer review; amending K.S.A. 1-307, 1-315 and 1-322 and K.S.A. 2008 Supp. 1-301, 1-302b, 1-308, 1-310, 1-311, 1-312, 1-316, 1-321 and 1-501 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Brownlee, Huelskamp, Masterson, Ostmeyer, Pilcher-Cook, Pyle. The substitute bill passed.

REPORT ON ENGROSSED BILLS

SB 212, SB 213, SB 262 reported correctly engrossed March 11, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Assessment and Taxation recommends HB 2172 be passed.

Committee on Education recommends HB 2001 be passed.

Committee on Financial Institutions and Insurance recommends HB 2185, as amended by House Committee, be passed.

Also, **HB 2052** be amended on page 6, in line 25, by striking "and"; in line 27, by striking the period and inserting "; and

(\$) a policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to part C or part D of subchapter XVIII, chapter 7 of title 42 of the United State code (commonly known as medicare part C & D) or any regulations issued pursuant thereto.";

And the bill be passed as amended.

Committee on Judiciary recommends HB 2207; HB 2232 be passed.

Committee on **Public Health and Welfare** recommends **SB 248** be amended on page 1, in line 27, by striking the comma and inserting "and"; also in line 27, by striking "and internet"; also in line 27, preceding the colon by inserting "that are required to be registered under K.S.A. 65-1643 or 65-1657, and amendments thereto";

On page 2, in line 1, by striking the comma, where it appears for the first time, and inserting "and"; also in line 1, by striking "and signature"; following line 7, by inserting the following:

"(c) Notwithstanding the requirements of this section, each pharmacy shall maintain the purchaser's signature in accordance with subsection (k) of K.S.A. 65-1643, and amendments thereto.";

And by relettering the remaining subsections accordingly;

Also on page 2, in line 8, following "pharmacy" by inserting "that is capable"; also in line 8, by striking "at the"; in line 9, by striking "point of sale"; by striking all in line 11; in line 12, by striking all preceding "Such" and inserting the following:

"(e) The board may grant a waiver exempting a pharmacy from compliance with the requirements of this section upon showing of good cause by the pharmacy that is otherwise unable to submit log information by electronic means for various reasons, including, but not limited to, mechanical or electronic failure or financial, technological or any other undue burden on the pharmacy, established by rules and regulations.";

Also on page 2, by striking all in lines 19 through 23 and inserting the following:

"New Sec. 3. (a) The cost of establishing and maintaining the statewide electronic logging system shall be borne by the state, other non-state units of government, private entities, or others. Pharmacies shall not be required to bear the costs associated with establishing and maintaining the electronic logging system, whether statewide, regional, county-wide or otherwise as provided in this section.

(b) In the event that funding for a statewide program is not available, the board may implement the program on a non-statewide basis, whether such program is funded regionally or county-wide or otherwise. The board shall, by rules and regulations, prescribe that such regional or non-statewide program comply with requirements applicable to a statewide program, including that such non-state governmental units or regional programs may not utilize different vendors. Any requirements of this act shall only be applicable to pharmacies within such units of government or regions, if a regional program is established, and all other pharmacies in the state shall be exempt from requirements for the electronic logging system required pursuant to this act.

(c) If the state, other non-state units of government, private entities or others are unable to bear the costs of establishing and maintaining the electronic logging system, pharmacies within the state, or in the case of regional or other non-statewide programs, pharmacies within those program areas shall be relieved of any obligation to comply with the statewide electronic logging system program pursuant to this act. Such pharmacies shall still be subject to the requirements of maintaining a log as provided in subsection (k) of K.S.A. 65-1643, and amendments thereto.

(d) The board shall not impose any charges for the establishment or maintenance of the program for the recording of methamphetamine precursors on a pharmacy. The board shall

not charge any fees for the transmission of data to the program database or for the receipt of information from the database.

(e) The state board of pharmacy may receive and expend, or supervise the expenditure of, any donation, gift, grant or bequest made to the board for furthering any phase of the statewide electronic logging system program."; Also on page 2, in line 37, by striking "for their patients" and inserting "to an individual

patient";

On page 3, in line 7, by striking all following the period; in line 8, by striking all preceding "Any" and inserting "The state agency or private vendor selected shall have the technological capability to receive electronic log data from pharmacies submitted pursuant to section 2, and amendments thereto, and to send real time notification to law enforcement officials. Regardless of the entity selected to manage the program, pharmacies are not required to use any one particular vendor's product to comply with the requirements under section 2, and amendments thereto. Any electronic system implemented by the state shall be capable of bridging with existing and future operational systems used by pharmacies at no cost to such pharmacies."; in line 10, by striking "section 5" and inserting "this section"; in line 11, by striking "10" and inserting "7"; in line 26, by striking "90 days" and inserting "a year"; following line 38, by inserting the following:

"New Sec. 8. Sections 1 through 8, and amendments thereto, shall be known and may be cited as the statewide electronic logging system for sale of methamphetamine precursor act.";

And by renumbering the remaining sections accordingly;

On page 6, in line 1, by striking "3" and inserting "2"; and the bill be passed as amended. Committee on Ways and Means recommends SB 22 be amended on page 1, in line 21, by striking "board" and inserting "court"; in line 22, by striking "shall make a tax levy at the first tax levying"; in line 23, by striking "period" and inserting "may pay such warrants with revenues from any available source. If there are no available revenues or if such revenues are insufficient to pay such warrants, the board shall make not more than two annual tax levies, as determined by the board, at the next succeeding tax-levying periods"; in line 26, by striking "2011" and inserting "2012"; and the bill be passed as amended.

Also, SB 285 be amended on page 2, in line 37, by striking "any fiscal year" and inserting "fiscal years 2010, 2011 and 2012. The provisions of this subsection (f) shall expire on June 30, 2012"; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Barnett the following report was adopted:

Recommended: SB 204, SB 254; HB 2004, HB 2092 be passed.

SB 257; HB 2158 be amended by adoption of the committee amendments, and the bills be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, March 12, 2009.

Journal of the Senate

FORTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, March 12, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Should we let the Bible Affect the way we vote? Or should we let its influence Be rare and remain remote?

Our founding fathers did not flinch From using Bible quotes; Whether while debating Or deciding how to vote.

Blackstone's Commentaries set The foundation for legal minds. He was the second most quoted source By the Founders in their time.

Blackstone said the laws of God Should not suffer contradiction, But the law that You revealed, O God, Is Your jurisdiction.

I know, O God, that legislators Will seek help all around. I only pray they'll search Your Word And find what Blackstone found.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 313, An act concerning school districts; relating to the contingency reserve fund; amending K.S.A. 2008 Supp. 72-6426 and repealing the existing section, by Committee on Ways and Means.

SB 314, An act creating the special economic revitalization act, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1614-

- By Senators D. Schmidt, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, V. Schmidt, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle and Wysong
- A PROPOSITION to amend article 11 of the constitution of the state of Kansas by adding a new section thereto, concerning a budget stabilization fund in the state treasury.
- Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 11 of the constitution of the state of Kansas is hereby amended by adding a new section thereto to read as follows:

- **§ 14. Budget Stabilization Fund.** A budget stabilization fund shall be established and maintained in the state treasury.
- (a) Not later than June 30 of each year, an amount equal to .25 percent of the state revenues collected in the preceding 12 months shall be transferred to the budget stabilization fund. The legislature shall have the power to transfer or appropriate additional amounts to the budget stabilization fund as the legislature may deem appropriate.
- (b) Moneys may be transferred from the budget stabilization fund only as follows:
- (1) Any amount of moneys may be transferred from the budget stabilization fund into a single other state fund. Any transfer authorized by this subparagraph shall be by a separate bill that does not include any other matter except that authorizing the transfer from the budget stabilization fund. The affirmative vote of not less than three-fifths of all members then elected (or appointed) and qualified to each house shall be necessary to pass any separate bill authorized by this subparagraph.
- (2) Whenever the amount in the budget stabilization fund exceeds five percent of the state revenues collected in the previous fiscal year, moneys that exceed such five percent may be transferred from the budget stabilization fund into a single other state fund. Any transfer authorized by this subparagraph shall be by a separate bill that does not include any other matter except that authorizing the transfer from the budget stabilization fund.
- (c) Amounts in the budget stabilization fund may be invested as provided by law and the earnings thereon shall be retained in the budget stabilization fund.
- (d) As used in this section, "state revenues" means all revenues from any source deposited to any state fund excluding any revenues received from the federal government.
- (e) The legislature may enact laws to carry out the purposes of this section.
- Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:
 - "*Explanatory statement*. The purpose of this amendment is to establish a budget stabilization fund in the state treasury.
 - "A vote for this amendment would require that annually .25 percent of the state revenues collected in the preceding year be transferred to the budget stabilization fund. Moneys from such fund may only be transferred for the following circumstances:
 - (1) By a separate act of the legislature passed by an affirmative vote of not less than three-fifths of all members then elected (or appointed) and qualified to each house.
 - (2) By a separate act of the legislature whenever the amount in such fund exceeds five percent of the state revenues collected in the previous fiscal year, moneys that exceed such five percent may be transferred from the budget stabilization fund.

"A vote against this amendment would make no changes in current law concerning the state's finance."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 2010 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

POINT OF PERSONAL PRIVILEGE

Senator Lynn rose on a point of personal privilege to introduce Alexis Radil, Ashley Holverson, Don Seifert and Darren Friendt, who were guests representing the Olathe Convention Visitors Bureau.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated: Assessment and Taxation: **SB 312**. Ways and Means: **SB 311**.

CHANGE OF REFERENCE

The President withdrew **SB 196** from the Calendar under the heading of General Orders, and rereferred the bill to the Committee on **Ways and Means**.

MESSAGE FROM THE HOUSE

Announcing passage of Substitute for HB 2029, Substitute for HB 2320, HB 2359.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

Substitute for HB 2029, Substitute for HB 2320, HB 2359 were thereupon introduced and read by title.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 204, An act concerning the secretary of agriculture; relating to food safety and lodging; disposition of moneys; creating the food safety and lodging fee fund; amending K.S.A. 2008 Supp. 74-591 and repealing the existing section; also repealing K.S.A. 2008 Supp. 36-512, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 254, An act concerning zoning; relating to counties declared urban areas; amending K.S.A. 19-2960 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Holland, Huelskamp, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, Morris, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Navs: Francisco, Hensley, Kelly, McGinn, Östmeyer.

The bill passed.

SB 257, An act concerning cities; relating to public improvements outside the city limits; amending K.S.A. 12-693 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 31, Nays 7, Present and Passing 2, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Kelsey, Kultala, Lee, Marshall, Masterson, Morris, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Francisco, Holland, Huelskamp, Lynn, Ostmeyer, Owens, Pyle.

Present and Passing: Kelly, McGinn.

The bill passed, as amended.

HB 2004, An act concerning retirement plans for certain employees of the state board of regents; amending K.S.A. 2008 Supp. 74-4925 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2092, An act relating to real property; prohibiting certain transfer fee covenants, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2158, An act concerning the Kansas highway patrol; pertaining to the ability of officers and members of the highway patrol to hold public office; amending K.S.A. 2008 Supp. 74-2113 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Faust-Goudeau introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1848-

A RESOLUTION congratulating Felix Zacharias.

WHEREAS, Felix Zacharias, an esteemed resident of Wichita, Kansas, and a junior in the study of political science at the University of Kansas, has achieved distinction by being named to the Executive Board of the University of Kansas Student Alumni Association for 2009-2010 as Vice President of University Relations, a position that makes him responsible for coordinating alumni association events held on campus; and

WHEREAS, The University of Kansas Student Alumni Association educates students about the KU Alumni Association and prepares them to become future alumni leaders, fostering spirit and pride and continuing traditions; and WHEREAS, Mr. Zacharias has also been honored by being chosen to attend the 2009 Kansas University LeaderShape Institute, where he joined students from around the world in developing leadership skills to be used in promoting projects that make the world a better place for all; and

WHEREAS, Mr. Zacharias has served in the United States Marine Corps since 2000 and has served two tours of duty in Iraq where, among other duties, he conducted over 100 combat missions and researched, planned and executed several company-level training exercises in urban mounted/dismounted patrolling, as well as insurgent tactics, techniques and procedures; and

WHEREAS, Mr. Zacharias served as Vice President of the Kansas University Collegiate Veterans Association in 2007 and 2008 and serves as its President today, having traveled personally to Washington, D.C. in the summer of 2008 to lobby for the 21st Century G.I. Bill; and

WHEREAS, Mr. Zacharias serves as a Non-Traditional Student Senator in the University of Kansas Student Senate, where he has written student legislation that has created accountability in Board turnover procedures; and

WHEREAS, Mr. Zacharias personifies the best that can be found in American youth, a best that is sorely needed to continue the traditions and founding principles of this great nation as we steer our course through the current troubled times: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Felix Zacharias for all his service to America and extend our best wishes for his continued success and happiness; and

Be it further resolved: That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator Oletha Faust-Goudeau.

On emergency motion of Senator Faust-Goudeau SR 1848 was adopted unanimously.

Senator Faust-Goudeau introduced Felix Zacharias and members joined her in recognizing him with a standing ovation.

Senator McGinn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1849-

A RESOLUTION designating March 12, 2009, as World Kidney Day and March as Kidney Awareness Month in Kansas.

WHEREAS, The State of Kansas recognizes that healthy citizens are essential for strong communities to thrive; and

WHEREAS, Chronic kidney disease is a major public health problem, with increasing prevalence, poor outcomes, long waits for kidney transplants and high costs; and

WHEREAS, More than 1 in 9 American adults have chronic kidney disease and over 2,200 Kansans receive life sustaining dialysis treatment; and

WHEREAS, Early detection can help prevent the progression of kidney disease toward kidney failure; and the earlier kidney disease is detected, the better the chances of slowing or stopping its progression and avoiding long hospital stays and dialysis; and

WHEREAS, As the costs of health care continue to grow, early and accurate identification of kidney disease is a critical component of efforts to reduce the negative clinical and economic impact on individuals and on the State of Kansas: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we designate March 12, 2009, as World Kidney Day and March as Kidney Awareness Month in Kansas; and

Be it further resolved: That the Secretary of the Senate be directed to provide five enrolled copies of this resolution to Senator Carolyn McGinn.

On emergency motion of Senator McGinn SR 1849 was adopted unanimously.

Senator McGinn recognized Wendy M. Schrag, Christine Seaton and Karl Bauder, who were representing the Kansas Kidney Association.

Senator Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1850-

A RESOLUTION recognizing the history of excellence demonstrated by the University of Kansas men's basketball team and declaring that it should not play any team that starts with the letter "B" in March.

WHEREAS, The University of Kansas Jayhawks men's basketball team has won five national championships, in 1922, 1923, 1952, 1988 and 2008, and have won a record 52 conference championships; and

WHEREAS, The Jayhawks have 13 NCAA Tournament Final Four appearances and 37 NCAA Tournament appearances; and

WHEREAS, The Jayhawks have been a number 1 seed eight times since the NCAA Tournament started seeding teams in 1979; and

WHEREAS, The Kansas Jayhawks currently have a 41 game winning streak in Allen Fieldhouse, the longest home-court winning streak in the nation; and

WHEREAS, The reigning national champions have enjoyed a successful 2009 season, posting a 14-2 conference record en route to another conference championship; and

WHEREAS, Despite their legacy of success, the Jayhawks have frequently struggled with teams that begin with the letter "B" in the month of March; and

WHEREAS, The Jayhawks recent struggles against "B" teams in the month of March include a 64-63 loss to Bucknell in the First Round of the NCAA Tournament in 2005, a 77-73 loss to Bradley in the First Round of the NCAA Tournament in 2006 and a 71-64 loss to Baylor in the Second Round of the Big 12 Tournament in 2009; and

WHEREAS, The heartache and disappointment caused by the losses to these "B" teams in March has been great: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize the history of excellence of the University of Kansas men's basketball team and that we declare that the team should not play any more teams that begin with the letter "B" in the month of March; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senators Terry Bruce, David Wysong, Marci Francisco, Bob Marshall, Ralph Ostmeyer, Derek Schmidt, Vicki Schmidt and John Vratil.

On emergency motion of Senator Wysong SR 1850 was adopted unanimously.

REPORT ON ENGROSSED BILLS

SB 257 reported correctly engrossed March 11, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HB 2321**, as amended by House Committee, be passed.

Committee on **Commerce** recommends **HB 2270** 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 **Ethics and Elections** recommends **SB 297** be amended on page 2, before line 15, by inserting:

"New Sec. 2. (a) Any faculty member who receives an annual salary of \$50,000 or more, other than an adjunct faculty member, who is employed by a state educational institution as defined by K.S.A. 76-711, and amendments thereto, shall file a written statement of substantial interests with the employing state educational institution.

(b) The written statement of substantial interests filed with a state educational institution pursuant to this section shall, at a minimum, include the information required by K.S.A. 46-229, and amendments thereto, and shall be an open public record. Any conflict of interests information required by the state board of regents or state educational institution that is in addition to that which is required by K.S.A. 46-229, and amendments thereto, may be placed in the faculty member's personnel records file and discretionarily closed in accordance with K.S.A. 45-221, and amendments thereto.

(c) The written statement of substantial interests required by this section shall be in such form as required by the state board of regents and shall be filed annually as part of the state

educational institution's appointment or salary notification process, and supplemented as required by the state board of regents.";

And by renumbering sections accordingly; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2054** be passed. Committee on **Judiciary** recommends **HB 2096** be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2096," as follows:

"SENATE Substitute for HOUSE BILL No. 2096

By Committee on Judiciary

"AN ACT concerning driving; creating the Kansas DUI commission; creating the correctional services special revenue fund; relating to driver improvement clinics; providing for disposition of certain moneys; relating to penalties for driving under the influence of alcohol or drugs; information sent to the Kansas bureau of investigation central repository; amending K.S.A. 12-4517 and K.S.A. 2008 Supp. 8-255, 8-267, 8-1567, 8-1567, as amended by section 2 of this act, and 12-4106 and repealing the existing sections."; and the substitute bill be passed.

Also, HB 2060 be amended on page 1, after line 13, by inserting the following:

"Section 1. K.S.A. 21-4319 is hereby amended to read as follows: 21-4319. (a) Unlawful conduct of cockfighting is: (1) Causing, for amusement or gain, any gamecock to fight with or injure or kill another gamecock; (2) knowingly permitting such fighting or injuring on premises under one's ownership, charge or control; or (3) training, grooming, preparing or medicating any gamecock for the purpose or with the intent of having it fight with or injure or kill another gamecock; or (4) attending the unlawful conduct of cockfighting as provided in this subsection.

(b) Unlawful conduct of cockfighting is a class A nonperson misdemeanor. possession of cockfighting paraphernalia is possession of spurs, gaffs, swords, leather training spur covers or anything worn by a gamecock during a fight to further the killing power of such gamecock.

(c) Unlawful attendance of cockfighting is entering or remaining on the premises where the unlawful conduct of cockfighting is occurring.

(d) Unlawful conduct of cockfighting is a level 10 nonperson felony.

(e) Unlawful possession of cockfighting paraphernalia is a class A nonperson misdemeanor. (f) Unlawful attendance of cockfighting is a class B nonperson misdemeanor.

 $\frac{1}{(c)}(g)$ As used in this section, "gamecock" means a domesticated fowl that is bred, reared or trained for the purpose of fighting with other fowl.

 $\frac{d}{d}(h)$ The provisions of this section shall be part of and supplemental to the Kansas criminal code.";

On page 7, after line 41, by inserting the following:

"Sec. 3. K.S.A. 2008 Supp. 21-4705 is hereby amended to read as follows: 21-4705. (a) For the purpose of sentencing, the following sentencing guidelines grid for drug crimes shall be applied in felony cases under the uniform controlled substances act for crimes committed on or after July 1, 1993:

Ι	1 Misdemeanor No Record	154 146 138	51 49 46	15 15 15 15 15 15 15 15 15 15 15 15 15 1	12 11 10
Н	2+ Misdemeanors	161 150 142	54 51 49	19 18 18	14 13 12
Ð	1 Nonperson Felony	162 154 146	57 54 51		16 15 14
Ц	2 Nonperson Felonies	167 158 150	59 56 52	24 23	18 17 16
ы	3 + Nonperson Felonies	170 162 154	62 59 55	32 30	22 20 18
D	1 Person Felony	179 170 161	68 64 60	36 34 32	26 24 23
C	1 Person & 1 Nonperson Felonies	187 178 169	72 68 65	42 40 37	32 30 28
В	2 Person Felonies	196 186 176	77 73 68	47 44 41	36 34 32
A	3 + Person Felonies	204 194 185	83 78 74	51 49 46	42 40 37
Category →	Severity Level l	н	II	III	IV

LEGEND	Porde Box
Presumptive Probation	Presumptive Imprisonment

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(b) The provisions of subsection (a) will apply for the purpose of sentencing violations of the uniform controlled substances act except as otherwise provided by law. Sentences expressed in the sentencing guidelines grid for drug crimes in subsection (a) represent months of imprisonment.

(c)⁽¹⁾ The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure. The sentencing court shall not distinguish between the controlled substances cocaine base (9041L000) and cocaine hydrochloride (9041L005) when sentencing within the sentencing range of the grid block.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the prison sentence, the maximum potential reduction to such sentence as a result of good time and the period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(d) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I shall not be considered a departure and shall not be subject to appeal.

(e) The sentence for a second or subsequent conviction of K.S.A. 65-4159 and amendments thereto, manufacture of any controlled substance or controlled substance analog shall be a presumptive term of imprisonment of two times the maximum duration of the presumptive term of imprisonment. The court may impose an optional reduction in such sentence of not to exceed 50% of the mandatory increase provided by this subsection upon making a finding on the record that one or more of the mitigating factors as specified in K.S.A. 21-4716 and amendments thereto justify such a reduction in sentence. Any decision made by the court regarding the reduction in such sentence shall not be considered a departure and shall not be subject to appeal.

(f) (1) The sentence for a third or subsequent felony conviction of K.S.A. 65-4160 or 65-4162, and amendments thereto, shall be a presumptive term of imprisonment and the defendant shall be sentenced to prison as provided by this section. Such term of imprisonment shall be served in a facility designated by the secretary of corrections in the custody of the secretary of corrections to participate in an intensive substance abuse treatment program. The intensive substance abuse treatment program shall be determined by the secretary of such intensive treatment program. The intensive treatment program shall be determined by the secretary of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision.

(2) If the defendant has previously completed a certified drug abuse treatment program, as provided in K.S.A. 2008 Supp. 75-52,144, and amendments thereto, has been discharged or refused to participate in a certified drug abuse treatment program, as provided in K.S.A.

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2008 Supp. 75-52,144, and amendments thereto, has completed an intensive substance abuse treatment program under paragraph (1) or has been discharged or refused to participate in an intensive substance abuse treatment program under paragraph (1), such defendant's term of imprisonment shall not be subject to modification under paragraph (1).

The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(g) (1) Except as provided further, if an offender carries a firearm to commit a drug felony, or in furtherance of a drug felony, possesses a firearm, in addition to the sentence imposed pursuant to the Kansas sentencing guideline act, the offender shall be sentenced to:

(A) An additional 12 months imprisonment;

(B) if the firearm is brandished, an additional 15 months imprisonment; and

(C) if the firearm is discharged, an additional 24 months

imprisonment.

(2) The sentence imposed pursuant to paragraph (1) shall be presumed imprisonment.

(3) The provisions of this subsection shall not apply to violations of K.S.A. 65-4152, 65-4160 or 65-4162, and amendments thereto.

(4) For purposes of this subsection, the term "brandish" means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person.

Sec. 4. K.S.A. 2008 Supp. 60-4104 is hereby amended to read as follows: 60-4104. Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

(a) All offenses which statutorily and specifically authorize forfeiture;

(b) violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto;

(c) theft which is classified as a felony violation pursuant to K.S.A. 21-3701, and amendments thereto, in which the property taken was livestock;

(d) unlawful discharge of a firearm, K.S.A. 21-4219, and amendments thereto;

(e) money laundering, K.S.A. 65-4142, and amendments thereto;

(f) gambling, K.S.A. 21-4303, and amendments thereto, and commercial gambling, K.S.A. 21-4304, and amendments thereto;

(g) counterfeiting, K.S.A. 2006 Supp. 21-3763, and amendments thereto;

(h) violations of K.S.A. 2006 Supp. 21-4019, and amendments thereto;

(i) medicaid fraud, K.S.A. 21-3844 et seq., and amendments thereto;

(j) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;

(k) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;

(l) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;

(m) furtherance of terrorism or illegal use of weapons of mass destruction, K.S.A. 2006 Supp. 21-3451, and amendments thereto.

(n) Unlawful conduct of cockfighting and unlawful possession of cockfighting paraphernalia, K.S.A. 21-4319, and amendments thereto.";

And by renumbering the sections accordingly;

Also on page 7, in line 42, after "K.S.A." by inserting "21-4319 and K.S.A."; also in line 42, by striking "is" and inserting ", 21-4705 and 60-4104 are";

In the title, in line 9, by striking "and punishment" and inserting ", punishment and criminal procedure"; also in line 9, after "to" by inserting "cockfighting; asset forfeiture;"; in line 10, after the semicolon by inserting "drug offenses; possession of a firearm; sentencing;"; also in line 10, after "amending" by inserting "K.S.A. 21-4319 and"; also in line 10, after "21-4704" by inserting ", 21-4705 and 60-4104"; in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

HB 2098 be amended on page 1, after line 13, by inserting the following:

"Section 1. K.S.A. 21-3523 is hereby amended to read as follows: 21-3523. (a) Electronic solicitation is, by means of communication conducted through the telephone, internet, or by other electronic means:

(1) Enticing or soliciting a person whom the offender believes to be a child under the age of 16 14 or more years of age but less than 16 years of age to commit or submit to an unlawful sexual act; or

(2) enticing or soliciting a person whom the offender believes to be a child under the age of 14 to commit or submit to an unlawful sexual act.

(b) Electronic solicitation as described in subsection (a)(1) is a severity level 3 person felony. Electronic solicitation as described in subsection (a)(2) is a severity level 1 person felony.

(c) For the purposes of this section, "communication conducted through the internet or by other electronic means" includes but is not limited to e-mail, chatroom chats and text messaging.

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

On page 2, after line 34, by inserting the following:

"Sec. 3. K.S.A. 21-4642 is hereby amended to read as follows: 21-4642. (a) An aggravated habitual sex offender shall be sentenced to imprisonment for life without the possibility of parole. Such offender shall spend the remainder of the offender's natural life incarcerated and in the custody of the secretary of corrections. An offender who is sentenced to imprisonment for life without the possibility of parole shall not be eligible for parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, or suspension, modification or reduction of sentence.

(b) Upon sentencing a defendant to imprisonment for life without the possibility of parole, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced to imprisonment for life without the possibility of parole.

(c) As used in this section:

(1) "Aggravated habitual sex offender" means a person who, on and after July 1, 2006: (A) Has been convicted in this state of a sexually violent crime, as described in paragraphs (3)(A) through 3(J) or (3)(L); and (B) prior to the conviction of the felony under subparagraph (A), has been convicted on at least two prior conviction events of any sexually violent crime.

(2) "Prior conviction event" means one or more felony convictions of a sexually violent crime occurring on the same day and within a single count *court*. These convictions may result from multiple counts within an information or from more than one information. If a person crosses a county line and commits a felony as part of the same criminal act or acts, such felony, if such person is convicted, shall be considered part of the prior conviction event.

(3) "Sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto; (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, and amendments thereto;

(K) any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent crime as defined in this section;

 $\rm (L)$ an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of a sexually violent crime as defined in this section; or

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(M) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.";

And by renumbering the sections accordingly;

Also on page 2, in line 35, after "K.S.A." by inserting "21-3523,"; also in line 35, by striking "is" and inserting "and 21-4642 are";

In the title, in line 10, after the semicolon by inserting "electronic solicitation; evidence in certain prosecutions; aggravated habitual sex offenders;"; also in line 10, after "K.S.A." by inserting "21-3523,"; also in line 10, after "21-3525" by inserting "and 21-4642"; in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

HB 2233 be amended on page 1, after line 13, by inserting the following:

"Section 1. K.S.A. 22-3210 is hereby amended to read as follows: 22-3210. (a) Before or during trial a plea of guilty or *nolo contendere* may be accepted when:

(1) The defendant or counsel for the defendant enters such plea in open court; and

(2) in felony cases the court has informed the defendant of the consequences of the plea, including the specific sentencing guidelines level of any crime committed on or after July 1, 1993, and of the maximum penalty provided by law which may be imposed upon acceptance of such plea; and

(3) in felony cases the court has addressed the defendant personally and determined that the plea is made voluntarily with understanding of the nature of the charge and the consequences of the plea; and

(4) the court is satisfied that there is a factual basis for the plea.

(b) In felony cases the defendant must appear and plead personally and a verbatim record of all proceedings at the plea and entry of judgment thereon shall be made.

(c) In traffic infraction, cigarette or tobacco infraction and misdemeanor cases the court may allow the defendant to appear and plead by counsel.

(d) (1) A plea of guilty or *nolo contendere*, for good cause shown and within the discretion of the court, may be withdrawn at any time before sentence is adjudged.

(2) To correct manifest injustice the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw the plea.

(e) (1) Any action under subsection (d)(2) must be brought within one year of: (A) The final order of the last appellate court in this state to exercise jurisdiction on a direct appeal or the termination of such appellate jurisdiction; or (B) the denial of a petition for a writ of certiorari to the United States supreme court or issuance of such court's final order following the granting of such petition.

 $(\hat{2})$ The time limitation herein may be extended by the court only upon an additional, affirmative showing of excusable neglect by the defendant.

Sec. 2. K.S.A. 22-3412 is hereby amended to read as follows: 22-3412. (a) (1) For crimes committed before July 1, 1993, peremptory challenges shall be allowed as follows:

(A) Each defendant charged with a class A felony shall be allowed 12 peremptory challenges.

(B) Each defendant charged with a class B felony shall be allowed eight peremptory challenges.

(C) \vec{E} ach defendant charged with a felony other than class A or class B felony shall be allowed six peremptory challenges.

(D) Each defendant charged with a misdemeanor shall be allowed three peremptory challenges.

(E) Additional peremptory challenges shall not be allowed on account of separate counts charged in the complaint, information or indictment.

(F) The prosecution shall be allowed the same number of peremptory challenges as all the defendants.

(2) For crimes committed on or after July 1, 1993, peremptory challenges shall be allowed as follows:

(A) Each defendant charged with an off-grid felony or a nondrug or drug felony ranked at severity level 1 shall be allowed 12 peremptory challenges.

(B) Each defendant charged with a nondrug felony ranked at severity level 2, 3, 4, 5 or
 6, or a drug felony ranked at severity level 2 or 3, shall be allowed 8 peremptory challenges.
 (C) Each defendant charged with an unclassified felony, a nondrug severity level 7, 8, 9

or 10, or a drug severity level 4 felony shall be allowed six peremptory challenges.

 $\left(D\right)$ Each defendant charged with a misdemeanor shall be allowed three peremptory challenges.

(E) The prosecution shall be allowed the same number of peremptory challenges as all defendants.

(F) The most serious penalty offense charged against each defendant furnishes the criterion for determining the allowed number of peremptory challenges for that defendant.

(G) Additional peremptory challenges shall not be allowed when separate counts are charged in the complaint, information or indictment.

(H) Except as otherwise provided in this subsection, the provisions of this section shall apply. In applying the provisions of this section, the trial court may determine the number of peremptory challenges to allow by reviewing the classification for the crime charged, or nearest comparable felony, as it was classified under the criminal law in effect prior to July 1, 1993. If the severity level of the most serious crime charged raises the potential penalty above that of another crime which was classified higher under the criminal law in effect prior to July 1, 1993, the defendant shall be allowed the number of peremptory challenges as for that higher classified crime under the prior system.

(I) The trial court shall resolve any conflicts with a liberal construction in favor of allowing the greater number of peremptory challenges.

(b) After the parties have interposed all of their challenges to jurors, or have waived further challenges, the jury shall be sworn to try the case.

(c) Immediately after the jury is empaneled and sworn, A trial judge may empanel one or more alternate or additional jurors whenever, in the judge's discretion, the judge believes it advisable to have such jurors available to replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable to perform their duties. Such jurors shall be selected in the same manner, have the same qualifications, and be subject to the same examination and challenges and take the same oath and have the same functions, powers and privileges as the regular jurors. Such jurors may be selected at the same time as the regular jurors or after the jury has been empaneled and sworn, in the judge's discretion. Each party shall be entitled to one peremptory challenge to such alternate jurors. Such alternate jurors shall be seated near the other jurors, with equal power and facilities for seeing and hearing the proceedings in the case, and they must attend at all times upon the trial of the cause in company with the other jurors. They shall obey the orders of and be bound by the admonition of the court upon each adjournment, but if the regular jurors are ordered to be kept in custody during the trial of the cause, such alternate jurors also shall be kept in confinement with the other jurors. Upon final submission of the case to the jury, the alternate jurors may be discharged or they may be retained separately and not discharged until the final decision of the jury. If the alternate jurors are not discharged on final submission of the case and if any regular juror shall be discharged from jury service in any such action prior to the jury reaching its verdict, the court shall draw the name of an alternate juror who shall replace the juror so discharged and be subject to the same rules and regulations as though such juror had been selected as one of the original jurors.";

And by renumbering the sections accordingly;

Also on page 1, in line 39, after "K.S.A." by inserting "22-3210, 22-3412 and"; also in line 39, by striking "is" and inserting "are"; in line 41, by striking "statute book" and inserting "Kansas register";

In the title, in line 9, after "to" by inserting "withdrawal of guilty pleas; jury selection; alternate or additional jurors;"; in line 10, after "K.S.A." by inserting "22-3210, 22-3412 and"; in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on Natural Resources recommends SCR 1610 be adopted.

Also, **SB 214** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No 214," as follows:

"Substitute for SENATE BILL No. 214 By Committee on Natural Resources

"AN ACT concerning solid waste; relating to the waste tire management fund; amending

K.S.A. 2008 Supp. 65-3424g and repealing the existing section.";

and the substitute bill be passed.

Committee on Transportation recommends SB 300, SB 302 be passed.

COMMITTEE OF THE WHOLE

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

On motion of Senator Wagle the following report was adopted:

Recommended: SB 54, SB 290; HB 2003, HB 2007, HB 2157, HB 2188, HB 2207, HB 2232 be passed.

SB 224, SB 241; HB 2265 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 260 be amended by motion Senator Abrams, on page 1, in line 20, following the period by inserting "The provisions of this subsection shall not apply to any person who at the time of an automobile accident has failed to maintain coverage for a period of 30 days or less and who had maintained continuous coverage for at least one year immediately prior to such failure to maintain coverage.", and **SB 260** be passed as amended.

HB 2197 be amended by motion of Senator Lee, on page 4, in line 21, by striking "academic year 2014-2015" and inserting "the first day of the fourth academic year following the year in which the rules and regulations are adopted", and **HB 2197** be passed as amended.

SB 248 be amended by adoption of the committee amendments, be further amended by motion of Senator Haley, on page 2, in line 22, following "that" by inserting "it", and **SB 248** be passed as further amended.

HB 2121 be amended by adoption of the committee amendments, be further amended by motion of Senator V. Schmidt, on page 34, in line 30, after the period, by inserting "Such rules and regulations shall be promulgated on or before July 1, 2010.", and **HB 2121** be passed as further amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ³/₂ constitutional majority, and **SB 54**, **SB 224**, **SB 241**, **SB 248**, **SB 260**, **SB 290**; **HB 2003**, **HB 2007**, **HB 2121**, **HB 2157**, **HB 2188**, **HB 2197**, **HB 2207**, **HB 2232**, **HB 2265** were advanced to Final Action and roll call.

SB 54, An act concerning a mural in the capitol.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0. Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "AYE", along with a unanimous Senate, on **SB 54**, which compels the planning and the placing of a mural on one of our newly renovated Capitol walls. The landmark legal case of **Brown vs. Board of Education** is one of the few items in Americana for which Kansas is really and truly known.

My father, who contributed as a Kansas City attorney to the *Brown* pleadings, and I, as a law student in Washington D. C. and a staffer for former Senator Dole, took exceptional pride once when President Reagan remarked at a White House ceremony on Kansas and his own knowledge of the *Brown* decision. It speaks volumes for our unique legacy. In 2004, both President George W. Bush and then presidential candidate US Senator John Kerry came, on the SAME day, to Topeka to commemorate the 50th Anniversary of the US Supreme Court's decision underscoring the gravamen of the premise that "separate is NOT equal" in public education and overturning the 1896 decision of **Plessy vs. Ferguson** which argued "separate could be equal."

Kansas is best known world-wide for the **Brown** decision and that, second only perhaps to the "Wizard of Oz", this is our State's best identifying legacy. This history, like the John Brown mural, is who we really and truly are and, at our best, who I personally hope Kansans always aspire to be.—DAVID HALEY

SB 224. An act concerning the emergency medical services board; authorizing the assessment of civil penalties.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Pyle.

The bill passed, as amended.

SB 241, An act relating to distressed property consulting services; providing for the regulation thereof; amending K.S.A. 50-1001, 50-1002, 50-1003, 50-1004, 50-1005, 50-1006, 50-1008, 50-1009, 50-1011, 50-1016, 50-1117, 50-1118, 50-1119, 50-1121, 50-1122, 50-1124, 50-1125, 50-1126, 50-1128 and 50-1133 and repealing the existing sections.

On roll call, the vote was: Yeas 36, Nays 4, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Brownlee, Huelskamp, Pilcher-Cook, Pyle.

The bill passed, as amended.

SB 248, An act concerning controlled substances; creating a statewide electronic logging system for sale of methamphetamine precursor; amending K.S.A. 2008 Supp. 65-1643 and repealing the existing section; also repealing K.S.A. 2008 Supp. 65-1643b.

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

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Huelskamp, Ostmeyer.

The bill passed, as amended.

SB 260, An act concerning insurance; relating to the recovery of economic or noneconomic loss sustained as a result of an accident while operating an uninsured motor vehicle.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Francisco, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Faust-Goudeau, Haley, Hensley.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **SB 260**. Due to the economic down times that we are experiencing here in the State of Kansas and due to the jobs that are being lost and the people who are filing bankruptcy and due to the practice of the insurance companies raising

premiums on the basis of low credit scores, I believe that we will have more and more uninsured drivers on our roads and highways. I have received numerous letters, e-mails, and phone calls about this issue this session, and it is a serious one. **SB 260** will add further damage.—OLETHA FAUST-GOUDEAU

SB 290, An act concerning school districts; relating to teachers and teachers' contracts; amending K.S.A. 2008 Supp. 72-5413 and repealing the existing section.

On roll call, the vote was: Yeas 34, Nays 5, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Brownlee, Bruce, Lynn, Ostmeyer, Pilcher-Cook.

Present and Passing: Donovan.

The bill passed.

HB 2003, An act concerning postsecondary education; relating to technical education; amending K.S.A. 71-1507, 72-4408, 72-4411, 72-4412, 72-4413, 72-4414, 72-4415, 72-4418, 72-4421, 72-4422, 72-4423, 72-4423, 72-4433, 72-4433, 72-4466, 72-4467, 72-4471 and 74-32,141 and K.S.A. 2008 Supp. 72-4427, 72-4450, 72-4451, 72-4452, 72-4470a, 72-4482 and 74-3201b and repealing the existing sections; also repealing K.S.A. 72-4416, 72-4416, 72-4448, 72-4448, 72-4449, 74-3205a, 74-3205b and 74-3205c and K.S.A. 2008 Supp. 72-4436, 72-4437, 72-44437, 72-4448, 72-4449, 74-3205a, 74-3205a and 74-3205c and K.S.A. 2008 Supp. 72-4436, 72-4437, 72-44437, 72-44487, 72-4449, 74-3205a, 74-3205a and 74-3205c and K.S.A. 2008 Supp. 72-4436, 72-4437, 72-4437, 72-444577, 72-444577, 72-444577, 72-444577, 72-444577, 72-444577, 72-444577, 72-444577, 72-444577, 72-444577, 72-444577, 72-444577, 72-444577, 72-445777, 72-445777, 72-445777, 72-445

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2007, An act concerning state educational institutions; relating to fees and tuition; amending K.S.A. 2008 Supp. 76-719c and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2121, An act concerning agriculture; relating to pesticide and fertilizer programs; fees; fees for milk and dairy products; amending K.S.A. 2-2203, 2-2205, 2-2206, 2-2207, 2-2209, 2-2214, 2-2440a, 2-2440c, 2-2440e, 2-2446, 2-2449, 2-2450, 2-2454, 2-2455, 2-2470 and 2-2471 and K.S.A. 2008 Supp. 2-1205, 2-2202, 2-2204, 2-2438a, 2-2440, 2-2440b, 2-2441a, 2-2443a, 2-2445a, 2-2469, 2-2905, 2-2906, 2-3304, 2-3306, 2-3309, 65-778 and 65-781 and repealing the existing sections; also repealing K.S.A. 2-1211 and 2-2466.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Pilcher-Cook.

The bill passed, as amended.

HB 2157, An act concerning the Topeka/Shawnee county riverfront authority act; amending K.S.A. 2008 Supp. 12-5611 and repealing the existing section. On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2188, An act amending the vehicle dealers and manufacturers licensing act; providing for a dealer-hauler full-privilege trailer license plate; amending K.S.A. 8-2406 and 8-2425 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2197, An act concerning state educational institutions; relating to the admission of students thereto; amending K.S.A. 76-717 and repealing the existing section.

On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Hensley, Lee, Ostmeyer, Petersen, Pilcher-Cook, Taddiken.

The bill passed, as amended.

HB 2207, An act concerning criminal procedure; relating to release prior to trial; costs; amending K.S.A. 22-2802 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2232, An act concerning corrections advisory boards; relating to membership; amending K.S.A. 2008 Supp. 75-5297 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2265, An act concerning the legislative post audit act; relating to periodic audits of the state treasurer and the pooled money investment board; transition audits; amending K.S.A. 2008 Supp. 46-1106 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, PilcherCook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong. The bill passed, as amended.

On motion of Senator D. Schmidt the Senate adjourned until $8{:}00$ a.m., Friday, March 13, 2009.

Journal of the Senate

FORTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS Friday, March 13, 2009—8:00 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with thirty senators present.

Senators Abrams, Barnett, Brownlee, Brungardt, Colyer, Faust-Goudeau, Haley, Kelsey, Masterson and Pyle were excused.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Praying for the Senators Is what I like to do They have responsibilities And plenty of problems, too.

Some of them live in Topeka, And can go home every night. Some who live not far away Commute before daylight.

Some who live quite far away Rent here a place to sleep. Others with several children Commute home every week.

Farmers, Physicians, and Attorneys Are almost half those in it. All of them have other jobs Besides being in the Senate.

This is just the beginning Of what I need to pray. I'll save the rest of my prayer For another day.

I pray in the Name of Jesus,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to Committees as indicated:

Commerce: **SB 314**. Local Government: **Sub HB 2029**. Public Health and Welfare: **HB 2359**. Ways and Means: **SB 313; SCR 1614; Sub HB 2320**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Committee on **Public Health and Welfare** introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1851-

A RESOLUTION urging review, modification and reorganization of laws pertaining to the maintenance and availability of health information.

WHEREAS, Kansans have an interest in the confidentiality, security, integrity and availability of their health information; and

WHEREAS, The availability, quality and efficiency in the delivery of health care, including establishment of medical homes, depend upon the efficient and secure collection, use, maintenance and exchange of health information; and

WHEREAS, The use of current and emerging technology facilitates the efficient and secure collection, use, maintenance and exchange of health information; and

WHEREAS, Kansas' out-dated and decentralized statutory and regulatory scheme, as well as its interaction with federal mandates, creates confusion and is a significant barrier to the efficient and secure collection, use, maintenance and exchange of health information: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the laws of Kansas should be reviewed, modified as necessary and construed so as to protect the interests of individuals in the confidentiality, security, integrity and availability of their health information; promote the use of modern technology in the collection, use, maintenance and exchange of health information; promote uniformity in policy and codify all standards in a cohesive and comprehensive statutory structure; and

Be it further resolved: That the Secretary of the Senate is directed to provide an enrolled copy of this resolution to the E-Health Advisory Committee, Kansas Health Policy Authority.

REPORTS OF STANDING COMMITTEES

Committee on Federal and State Affairs recommends SB 247 be passed.

Also, **SB 75** be amended on page 1, in line 27, preceding the period by inserting ", or the consolidation of offices, functions, services and operations"; and the bill be passed as amended.

SB 179 be amended on page 1, in line 40, by striking "unlawfully"; in line 42, after "activity" by inserting ", in whole or in part,"; in line 43, by striking "when" and inserting "except when the officer has reason to believe"; also in line 43, by striking all after "The";

On page 2, in line 1, by striking "reason to believe the"; in line 2, by striking all after "(B)"; in line 3, by striking "information leading a reasonable law enforcement officer to believe"; in line 5, by striking "the"; by striking all in line 6; in line 7, by striking "reasonable law enforcement officer to believe"; in line 9, by striking "not"; in line 10, after the comma where it appears the second time, by inserting "or"; also in line 10, by striking "or religious dress"; in line 41, after "design" by inserting ", develop and implement"; also in line 41, by striking ", analysis"; in line 42, by striking all after "stops"; by striking all in line 43;

On page 3, in line 1, by striking "this subsection shall be designed no later than January 1, 2010" and inserting "of motorists and passengers"; after line 23, by inserting the following:

"(h) The provisions of this section shall expire on July 1, 2011.";

Also on page 3, in line 25, following the stricken material by inserting "(a)"; in line 26, following the stricken material by inserting "a factor"; in line 30, after "vehicle" by inserting "or pedestrian"; after line 30, by inserting the following:

"(b) No law enforcement officer shall use violations of the traffic laws as a pretext for racial profiling.";

On page 4, in line 18, by striking "and" the second time it appears, and inserting a comma; also in line 18, after "ordinances" by inserting "and labor contracts"; in line 43, by striking "specific";

On page 5, after line 18, by inserting the following:

"(b) Upon finding that an investigation is necessary, the commission shall be responsible for timely notification of the law enforcement officer or officers and their respective law enforcement agency that an investigation has been initiated and shall provide: (1) A copy of the signed complaint; (2) a copy of any and all documentation and evidence provided in support of the claim of racial profiling; and (3) the factors considered by the commission specific to the incident which support the necessity to investigate the claim of racial profiling.";

Also on page 5, in line 20, after "cause" by inserting "and supporting investigative reports"; in line 23, after "writing" by inserting "to the head of the law enforcement agency. Such writing shall include a summary of the rationale for the finding and shall be made in accordance with K.S.A. 45-221, and amendments thereto"; also in line 23, by striking "Nothing"; by striking all in line 24; in line 25, by striking all before "Kansas" and inserting the following:

"(d) The";

Also on page 5, in line 28, after the comma by inserting "the"; in line 31, by striking "a motorist" and inserting "an individual"; in line 32, by striking "to file" and inserting "from filing"; in line 37, after the period by inserting the following:

"(f) Upon the disposition of a complaint as provided for in subsection (a), the respondent may appeal a finding of probable cause by the Kansas human rights commission to the district court and shall have a civil cause of action against the complainant and shall be entitled to recover damages if it is determined by the court that the complainant knowingly made a false complaint.

(g)";

And by relettering the subsections accordingly;

Also on page 5, by striking all in lines 39 through 43;

By striking all on pages 6 through 8;

On page 9, by striking all in lines 1 through 11;

And by renumbering the remaining sections accordingly;

Also on page 9, in line 12, by striking "and" where it appears the second time; in line 13, by striking "K.S.A. 2008 Supp. 74-9501";

In the title, in line 11, by striking "and" where it appears the second time; in line 12, by striking "K.S.A. 2008 Supp. 74-9501"; and the bill be passed as amended.

SB 218 be amended on page 1, in line 21, after "wine" by inserting "in the original unopened container"; and the bill be passed as amended.

HB 2171 be amended on page 3, preceding line 11, by inserting the following:

"Sec. 7. K.S.A. 73-1208a is hereby amended to read as follows: 73-1208a. (*a*) There is hereby created the Kansas commission on veterans affairs, which shall consist of five members appointed by the governor. The members of the commission shall be persons who have served in the armed forces of the United States and have received an honorable discharge, as evidenced by their military discharge papers (DD Form 214). The governor shall designate the chairperson of the commission. Members of the commission serving on the effective date of this act shall continue to serve for the term for which appointed. On July 1, 1986, the governor shall appoint one member for a term expiring on June 30, 1987, and one member for a term expiring on June 30, 1988.

(b) Subject to the provisions of K.S.A. 1992 Supp. 75-4315c, and amendments thereto, the governor shall appoint one member from each congressional district and the remainder from the state at large. Not more than three members shall be members of the same political party; and not more than two members shall represent the same veterans' organization.

(c) Persons appointed as successors to all members of the commission shall be appointed for terms of four years. The governor may remove a member of the commission for good cause. Any vacancy occurring in the membership of the commission for any cause shall be filled by appointment for the unexpired term in the same manner that original appointments are made as provided in subsection (a). Members of the commission attending meetings of the commission, or attending a subcommittee meeting thereof authorized by the commission, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

Sec. 8. K.S.A. 2008 Supp. 73-1234 is hereby amended to read as follows: 73-1234. (a) The Kansas commission on veterans affairs shall establish and administer a veterans claims assistance program in accordance with this section to improve the coordination of veterans benefits counseling in Kansas to maximize the effective and efficient use of taxpayer dollars

and to ensure that every veteran is served and receives claims counseling and assistance. The Kansas commission on veterans affairs shall establish and commence operations under the veterans claims assistance program in accordance with this section on or before August 1, 2006. The Kansas commission on veterans affairs shall appoint the director of the veterans claims assistance program, who shall be in the classified service under the Kansas civil service act. No employee of the Kansas commission on veterans affairs shall act as an agent with power of attorney for any claimant.

(b) The veterans claims assistance program shall be implemented implement and administered through administer annual service grants to eligible veterans service organizations pursuant to grant agreements entered into with the Kansas commission on veterans affairs in accordance with this section. All service grants and grant agreements shall be subject to the provisions of appropriation acts.

(c) The Kansas commission on veterans affairs shall adopt rules and regulations to implement and administer the veterans claims assistance program and the service grant program. The rules and regulations shall include: (1) The detailed requirements of the veterans claims assistance program and grant agreements; (2) the responsibilities of all parties to the grant agreements; (3) the duration of the grants; (4) any insurance or bonding requirements; (5) the format and frequency of progress and final reports; (6) the initial and continuing training requirements for veterans claims assistance program and the services performed by veterans service organizations receiving grants under this section; and (8) any other information or requirements deemed necessary or appropriate by the commission.

(d) All moneys provided to veterans service organizations through service grants shall be used only for salaries, wages, related employer contributions and personnel costs, and operating and capital outlay expenditures for training and equipment for veterans claims assistance representatives and necessary support and managerial staff.

(e) Training activities for veterans claims assistance representatives shall be the responsibility of the veterans service organization employing the veterans claims assistance representatives and shall be conducted by qualified veterans claims assistance representatives.

(f) To receive a service grant under this section to perform services under the veterans claims assistance program, a veterans service organization shall satisfy the following eligibility requirements: (1) The veterans service organization shall be congressionally chartered by the United States Congress; (2) the veterans service organization shall agree to crossaccredit the officers and employees of the Kansas commission on veterans affairs and who are veterans and who work in the veteran services program, as well as veterans claims assistance representatives of other veterans service organizations who are performing services under the veterans claims assistance program, subject to the following: (A) The person to be cross-accredited shall provide proof to the veterans service organization director that the person has successfully completed the national association of county veterans service officers training or equivalent, as determined by the director and that such person shall participate in a minimum of one annual training session as approved by the director as well as maintain the continuing education requirements of the cross-accrediting veterans service organization; and (B) the cross-accrediting veterans service organization is has reserved the right to terminate the cross-accrediting accreditation if the person fails to meet the continuing education requirement of the veterans service organization or participate in a minimum of one annual training session as approved by the director; (3) agree to participate in onestop veterans service centers at the federal veterans administration regional office and each federal veterans administration medical center in Kansas; (4) demonstrate the receipt of monetary or service support from its own organization for the veterans claims assistance program; (5) demonstrate the ability to comply with the requirements prescribed by this section or adopted by the Kansas commission on veterans affairs under this statute for accounting, service work activity and other satisfactory performance requirements and measures; (6) have established state headquarters in Kansas; (7) have staff present in the three federal veterans administration regional office and the United States department of veterans affairs medical centers located in Topeka, and Leavenworth and Wichita; (8) have membership residency in at least 50% of the Kansas counties; (9) have had an established office presence in the United States department of veterans affairs regional office in Kansas for

at least the three most recent state fiscal years; (10) have assisted in filing a minimum of 300 claims for veterans for which the veterans service organization has power of attorney in the past 12-month period; (11) agree to make no reference to membership eligibility on claims documentation and not solicit membership due to information received on claim forms; (12) agree to cross-accredit service officers participating in the service grant program to include service officers of partnered veterans service organizations and Kansas commission on veterans affairs staff located in the federal veterans administration regional office and the United States department of veterans affairs medical centers in Leavenworth, and Topeka and Wichita; (13) agree that grant funding will not replace the monetary support currently provided by the veterans service organization to offices in the *federal veterans* administration regional office and the United States department of veterans affairs medical centers in Leavenworth, and Topeka and Wichita for veterans claims assistance but will supplement the veterans service organization's monetary support currently in place; and (14) agree that the veterans service organization's monetary support currently provided for veterans claims assistance in the federal veterans administration regional office and the United States department of veterans affairs medical centers in Leavenworth, and Topeka and Wichita will be equal to or greater than the monetary support that the veterans service organization provided in the previous year. For the purposes of this subsection, "director" means the veterans claims assistance program director.

(g) Each veterans service organization receiving a service grant under this section shall file with the Kansas commission on veterans affairs, within 90 days after the end of the veterans service organization's fiscal year, a detailed statement prepared by a certified public accountant which sets forth an accounting of all expenditures of moneys received under the service grant. Each veterans service organization receiving a service grant under this section shall apply for the grant funding on an annual basis, shall demonstrate satisfactory performance based on completion of minimum requirements during the preceding annual period and shall certify that all veterans service representatives funded with service grant moneys meet minimum training requirements to provide for core competencies.

(h) The Kansas commission on veterans affairs shall develop and maintain a central database registry regarding claims outcome data received from veterans claims assistance representatives under the veterans claims assistance program.

Sec. 9. K.S.A. 2008 Supp. 73-1235 is hereby amended to read as follows: 73-1235. (a) There is hereby established with the Kansas commission on veterans affairs an advisory board which shall be known as the veterans claims assistance advisory board. The advisory board shall advise the Kansas commission on veterans affairs in the implementation and administration of the veterans claims assistance program.

(b) The advisory board shall consist of six members as follows the following members:

(1) The director of the veterans claims assistance program, who shall be a permanent member of the advisory board and shall serve as the chairperson of the advisory board.

(2) Three members of the advisory board shall be veterans representing veterans service organizations Each veterans service organization participating in the grant program shall appoint one member of the advisory board who shall be a veteran. The director shall notify the state level unit of each national veterans service organization which has an office in the federal department of veteran affairs regional office in Wichita, Kansas, and request written confirmation of the intent of the veterans service organization to participate in the veterans claims assistance program and to request an annual service grant. Each such veterans service organization submitting such confirmation that also meets the eligibility requirements in K.S.A. 73-1234, and amendments thereto, shall prepare and submit a list of three nominations of veterans from such veterans service organization. The governor shall appoint one veteran as a member of the advisory board from each list.

(3) Two legislators, one from each house, shall be appointed to the advisory board with the speaker of the house of representatives and president of the senate each appointing a member. One legislator shall be a member of the democratic party and one legislator shall be a member of the republican party.

(c) Within 90 days of the effective date of this act, the governor, the speaker of the house of representatives and the president of the senate shall appoint the initial members of the advisory board. Of the initial appointments to the advisory board by the governor, one shall

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be for a term of one year, one shall be for a term of two years and one shall be for a term ending three years after the date of the initial appointment. After the initial appointments, terms of office of the members appointed by the governor shall be for three years. The term of office of each member appointed by the speaker of the house of representatives or the president of the senate shall end on the first day of the regular session of the legislature which commences in the first odd-numbered year occurring after the year such member was appointed.

(d) Each member of the advisory board, other than the director of the veterans claims assistance program, shall serve until a successor is appointed and qualified. Whenever a vacancy occurs in the membership of the advisory board for any reason other than the expiration of a member's term of office, the governor, the speaker of the house of representatives or president of the senate shall appoint a successor of like qualifications to fill the unexpired term in accordance with this section. In the case of any vacancy occurring in the position of an advisory board member who was appointed from a list of nominations submitted by a veterans service organization, the governor shall notify that veterans service organization of the vacant position and request a list of three nominations of veterans from which the governor shall appoint a successor to the advisory board.

(e) Annually, the advisory board shall elect a vice-chairperson and secretary from among its members and shall meet at least four times each year at the call of the chairperson.

(f) The members of the advisory board attending meetings of the advisory board or attending a subcommittee meeting thereof authorized by the advisory board shall receive no compensation for their services but shall be paid subsistence allowances, mileage and other expenses as provided in subsections (b), (c) and (d) of K.S.A. 75-3223 and amendments thereto.

Sec. 10. K.S.A. 73-1208a and K.S.A. 2008 Supp. 73-1234 and 73-1235 are hereby repealed.";

And by renumbering the remaining section accordingly;

In the title, by striking all in lines 10 through 12 and inserting the following:

"AN ACT concerning the Kansas commission on veterans affairs; relating to the membership thereof; relating to the veterans claims assistance program and the veterans claims assistance advisory board; creating the Vietnam war era medallion program; amending K.S.A. 73-1208a and K.S.A. 2008 Supp. 73-1234 and 73-1235 and repealing the existing sections.";

And the bill be passed as amended.

HB 2308 be amended on page 1, in line 19, by striking ", at the option of the licensee: (1) Shall" and inserting "shall"; in line 25, by striking all after "thereto"; by striking all in line 26; in line 27, by striking all before the period; in line 29, by striking all after "weapons"; by striking all in line 30; in line 31, by striking all before "which"; in line 34, by striking all after "identification"; by striking all in line 35; in line 36, by striking all before the period;

On page 2, after line 10, by inserting:

"Sec. 2. K.S.A. 2008 Supp. 75-7c04 is hereby amended to read as follows: 75-7c04. (a) The attorney general shall issue a license pursuant to this act if the applicant:

(1) Is a resident of the county where application for licensure is made and has been a resident of the state for six months or more immediately preceding the filing of the application, residency to be determined in accordance with K.S.A. 77-201, and amendments thereto;

(2) is 21 years or more of age;

(3) does not suffer from a physical infirmity which prevents the safe handling of a weapon;

(4) (A) has been convicted or placed on diversion for an act that constitutes a felony under the laws of this state or any other jurisdiction and: (i) Such felony is expungeable pursuant to K.S.A. 21-4619, and amendments thereto, or similar provision from another jurisdiction; (ii) such felony has been expunged; and (iii) the requirements of subsection (d) are otherwise met;

(B) has not been convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a felony under the laws of this state and such felony is not subject to expungement pursuant to K.S.A. 21-4619, and amendments thereto, or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a felony under the laws of this state if committed by an adult;

(5) has never been convicted, in this or any other jurisdiction, for an act that constitutes a misdemeanor crime of domestic violence, as defined by 18 U.S.C. 921(a)(33)(A) or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a misdemeanor crime of domestic violence under 18 U.S.C. 921(a)(33)(A) if committed by an adult;

(6) has not been, during the five years immediately preceding the date the application is submitted: (A) Convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a misdemeanor under the provisions of the uniform controlled substances act or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a misdemeanor under such act if committed by an adult; (B) convicted or placed on diversion, in this or any other jurisdiction, two or more times for an act that constitutes a violation of K.S.A. 8-1567, and amendments thereto; (C) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a domestic violence misdemeanor under any municipal ordinance or article 34 or 35 of chapter 21 of the Kansas Statutes Annotated or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a domestic violence misdemeanor under article 34 or 35 of chapter 21 of the Kansas Statutes Annotated if committed by an adult; or (D) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a violation of K.S.A. 2008 Supp. 75-7c12, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a violation of K.S.A. 2008 Supp. 75-7c12, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, if committed by an adult;

(7) has not been charged with a crime which would render the applicant, if convicted, ineligible for a license or, if so charged, final disposition of the charge has occurred and no other charges are pending which would cause the applicant to be ineligible for a license;

(8) has not been ordered by a court to receive treatment for mental illness pursuant to K.S.A. 59-2966, and amendments thereto, or for an alcohol or substance abuse problem pursuant to K.S.A. 59-29b66, and amendments thereto, or, if a court has ordered such treatment, has not been issued a certificate of restoration pursuant to K.S.A. 2008 Supp. 75-7c26, and amendments thereto, not less than five years before the date of the application;

(9) desires a legal means to carry a concealed weapon for lawful self-defense;

(10) except as provided by subsection (g) of K.S.A. 2008 Supp. 75-7c05, and amendments thereto, presents evidence satisfactory to the attorney general that the applicant has satisfactorily completed a weapons safety and training course approved by the attorney general pursuant to subsection (b);

(11) has not been adjudged a disabled person under the act for obtaining a guardian or conservator, or both, or under a similar law of another state or the District of Columbia, unless the applicant was ordered restored to capacity three or more years before the date on which the application is submitted;

(12) has not been dishonorably discharged from military service;

(13) is a citizen of the United States;

(14) is not subject to a restraining order issued under the protection from abuse act, under the protection from stalking act or pursuant to K.S.A. 60-1607, K.S.A. 2008 Supp. 38-2242, 38-2243 or 38-2255, and amendments thereto, or any equivalent order entered in another state or jurisdiction which is entitled to full faith and credit in Kansas; and

(15) is not in contempt of court in a child support proceeding.;

(16) has not attempted to commit suicide in the five years immediately preceding application; and

(17) has not been adjudicated as a mental defective or committed to a mental institution.

(b) (1) The attorney general shall adopt rules and regulations establishing procedures and standards as authorized by this act for an eight-hour weapons safety and training course required by this section. Such standards shall include: (A) A requirement that trainees receive training in the safe storage of weapons, actual firing of weapons and instruction in the laws of this state governing the carrying of a concealed weapon and the use of deadly

force; (B) general guidelines for courses which are compatible with the industry standard for basic firearms training for civilians; (C) qualifications of instructors; and (D) a requirement that the course be: (i) A weapons course certified or sponsored by the attorney general; or (ii) a weapons course certified or sponsored by the national rifle association or by a law enforcement agency, college, private or public institution or organization or weapons training school, if the attorney general determines that such course meets or exceeds the standards required by rules and regulations adopted by the attorney general and is taught by instructors certified by the attorney general or by the national rifle association, if the attorney general determines that the requirements for certification of instructors by such association meet or exceed the standards required by rules and regulations adopted by the attorney general. Any person wanting to be certified by the attorney general as an instructor shall submit to the attorney general an application in the form required by the attorney general and a fee not to exceed \$150.

(2) The cost of the weapons safety and training course required by this section shall be paid by the applicant. The following shall constitute satisfactory evidence of satisfactory completion of an approved weapons safety and training course: (A) Evidence of completion of the course, in the form provided by rules and regulations adopted by the attorney general; or (B) an affidavit from the instructor, school, club, organization or group that conducted or taught such course attesting to the completion of the course by the applicant.

(c) In addition to the requirements of subsection (a), a person holding a license pursuant to this act, prior to renewal of the license provided herein, shall submit evidence satisfactory to the attorney general that the licensee has requalified by completion of an approved course given by an instructor of an approved weapons safety and training course under subsection (b).

(d) If an applicant has had a conviction or diversion described in subsection (a)(4)(A) or (a)(6) expunged pursuant to K.S.A. 12-4516 or 21-4619, and amendments thereto, or similar provision from another jurisdiction, and the applicant has been eligible for expungement for five years or more immediately preceding the date the application for licensure is submitted, the applicant shall not be disqualified from being issued a license if the applicant is otherwise qualified for licensure pursuant to this section and eligible to possess a firearm under state and federal law.

(e) For purposes of this section: (1) "Adjudicated as a mental defective" means a determination by a court, board, commission or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition or disease: (A) Is a danger to the person's self or to others; or (B) lacks the mental capacity to contract or manage the person's own affairs. "Adjudicated as a mental defective" shall include a finding of insanity by a court in a criminal case, and those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to articles 50a and 72b of the United States uniform code of military justice.

(2) (A) "Committed to a mental institution" means a formal commitment of a person to a mental institution by a court, board, commission or other lawful authority. "Committed to a mental institution" includes a commitment to a mental institution involuntarily, commitment for mental defectiveness or mental illness and commitments for other reasons, such as for drug use.

(B) "Committed to a mental institution" shall not include a person in a mental institution for observation or a voluntary admission to a mental institution.";

And by renumbering sections accordingly;

Also on page 2, in line 27, by striking "(a)(7)" and inserting "(a)(8)";

On page 4, in line 29, after "75-7c03" by inserting ", 75-7c04";

In the title, in line 10, after "75-7c03" by inserting ", 75-7c04"; and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Monday, March 16, 2009.

Journal of the Senate

FORTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Monday, March 16, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

President Morris introduced as guest chaplain, Rev. Howard Cupp, Westside Christian Church, Topeka, Kansas, who delivered the invocation:

God of our dreams and our disappointments, our fears and our frustrations: we give thanks for the blessings that fill our lives, especially now for the guidance and empowerment that you offer for just and fair leadership.

We find ourselves in a difficult and confusing time. Perhaps we are learning the inadequacy of our cherished ways of doing things. Perhaps, after sowing seeds of injustice, we are reaping a harvest of crumbling institutions. We confess our need for your guidance if we're to find our way through and beyond these trying times to a life of justice and abundance for all our citizens.

So I pray that you will grant these men and women the power, the desire, and the grace truly to listen—and hear—you and one another, that this body might become a representative community, rather than armies of opposing parties and interests, and rise above the desire for power and control, to lay a good foundation, through laws, budgets, and programs, for a life of justice and abundance—not just for a privileged majority—but for all who call Kansas home.

Bless their efforts, God, to serve you and all their constituents faithfully. Amen.

The Pledge of Allegiance was led by President Stephen Morris.

POINT OF PERSONAL PRIVILEGE

Senator McGinn rose on a point of personal privilege to introduce Carolyn Lindsey, Mike Leck, Christin Gillman, Hannah Gillman, Amanda Gillman, Micah Gillman, Jamie Gillman, Chelsea Moore, Calvary Lyle and Gabe Butel, who were guests representing the Friends of the Great Plains Nature Center publishing the book Kansas Critters: Birds; a Wildlife Book written and illustrated by Kansas Kids.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 315, An act concerning water; relating to tax exemptions; notification to water rights holders; review of water development projects; amending K.S.A. 79-201g, 82a-325, 82a-327, 82a-406 and 82a-407 and K.S.A. 2008 Supp. 82a-405, 82a-714 and 82a-718 and repealing the existing sections, by Committee on Ways and Means.

SB 316, An act concerning chemigation safety; relating to application of swine waste; amending K.S.A. 2008 Supp. 2-3318 and 65-1,182 and repealing the existing sections, by Committee on Ways and Means.

SB 317, An act abolishing the Kansas technology enterprise corporation and transferring the powers and duties thereof to the department of commerce and the board of regents; amending K.S.A. 74-5001a, 74-8102, 74-8103, 74-8106, 74-8107, 74-8108, 74-8109, 74-8110, 74-8111, 74-8316, 74-8317, 74-8318, 74-8319, 74-8401, 75-2935b, 75-3208 and 76-770 and K.S.A. 2008 Supp. 74-520a, 74-5005, 74-50,133, 74-50,151, 74-50,156, 74-8101, 74-8104, 74-8131, 74-8132, 74-8133, 74-8134, 74-8135, 74-8136, 74-99b03, 74-99b04, 74-99b03, 74-99b03, 74-99b03, 74-99b03, 74-99b03, repealing the existing sections; also repealing K.S.A. 74-5050 and 74-8105, by Committee on Ways and Means.

SB 318, An act concerning the state board of healing arts; relating to fees charged and collected by the board; amending K.S.A. 65-2852, 65-5409, 65-5509 and 65-7207 and K.S.A. 2008 Supp. 65-2012, 65-2803, 65-2911, 65-6910 and 65-7308 and repealing the existing sections, by Committee on Ways and Means.

SB 319, An act concerning retirement and pensions; relating to the Kansas police and firemen's retirement system; affiliation of adjutant general; membership of certain firefighters; contributions, by Committee on Ways and Means.

SB 320, An act concerning the department of social and rehabilitation services; regarding the funeral assistance program; amending K.S.A. 22a-215 and 39-713d and repealing the existing sections, by Committee on Ways and Means.

SB 321, An act concerning insurance; relating to the insurance department service regulation fund; amending K.S.A. 2008 Supp. 40-112 and repealing the existing section, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1615-

- By Senators Pilcher-Cook, Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pyle, D. Schmidt, Schodorf, Taddiken, Vratil and Wagle
- A CONCURRENT RESOLUTION claiming sovereignty under the Tenth Amendment to the Constitution of the United States over certain powers; serving notice to the federal government to cease and desist certain mandates; providing that certain federal legislation be prohibited or repealed; and directing distribution.

WHEREAS, The Tenth Amendment to the Constitution of the United States reads as follows:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."; and

WHEREAS, The Tenth Amendment defines the total scope of federal power as being that specifically granted by the Constitution of the United States and no more; and

WHEREAS, The scope of power defined by the Tenth Amendment means that the federal government was created by the states for the specific purpose of being an agent of the states; and

WHEREAS, Today, in 2009, the states are demonstrably treated as agents of the federal government; and

WHEREAS, Many federal laws are in direct violation of the Tenth Amendment to the Constitution of the United States; and

WHEREAS, The Tenth Amendment assures that we, the people of the United States of America and each sovereign state in the Union of States, now have, and have always had, rights the federal government may not usurp; and

WHEREAS, Article IV, Section 4 says, "The United States shall guarantee to every State in this Union a Republican Form of Government", and the Ninth Amendment states that "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people"; and

WHEREAS, The United States Supreme Court has ruled in *New York v. United States*, 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

WHEREAS, A number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the Constitution of the United States. Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the State of Kansas hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States;

Be it further resolved: That this serve as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of these constitutionally delegated powers;

Be it further resolved: That all compulsory federal legislation which directs states to comply under threat of civil or criminal penalties or sanctions or requires states to pass legislation or lose federal funding be prohibited or repealed; and

Be it further resolved: That a copy of this resolution be distributed to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Speaker of the House and the President of the Senate of each state's legislature of the United States of America, and each member of the Kansas Congressional Delegation.

SENATE CONCURRENT RESOLUTION No. 1616-

By Committee on Ways and Means

A CONCURRENT RESOLUTION urging Kansas school districts to use carefully the federal stimulus funds received under the Federal American Recovery and Reinvestment Act of 2009 and to use other available funds to establish or to increase the balances in contingency reserve funds of districts.

WHEREAS, The Federal American Recovery and Reinvestment Act of 2009 will provide over \$1.7 billion in federal economic stimulus funds to the state of Kansas; and

WHEREAS, The funds are designed to stimulate the economy in the short term and for investment in education and other essential public services to ensure the long-term economic health of our nation; and

WHEREAS, The State of Kansas will receive over \$875 million in federal economic stimulus funds under the Federal American Recovery and Reinvestment Act of 2009 for educational purposes; and

WHEREAS, Approximately \$600 million of the federal economic stimulus funds under the Federal American Recovery and Reinvestment Act of 2009 will be expended for primary and secondary education in the state of Kansas; and

WHEREAS, The projected State General Fund receipts for the state of Kansas forecast significant shortfalls in the balances of the State General Fund, perhaps, by some projections as high as 23% in Fiscal Year 2012; and

WHEREAS, The Secretary of the United States Department of Education, Arne Duncan, has cautioned state and school district officials that federal economic stimulus funds received under the Federal American Recovery and Reinvestment Act of 2009 are provided on a one-time basis and that state and school district officials need to find the best way to stretch every dollar and not to spend such funds to finance on-going programs; and

WHEREAS, School districts should take steps to be prepared for the possibility that unless the state and national economy markedly improves, inFiscal Year 2012 the State General Fund could face a potential shortfall of huge proportions resulting in the reduction of appropriation of state moneys for school districts: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That we encourage school districts to utilize carefully one-time federal economic stimulus funds received under the Federal American Recovery and Reinvestment Act of 2009 and not to finance on-going programs with such funds; and

Be it further resolved: That we encourage the school districts to be responsible stewards of the school funds and to establish or increase the balances in contingency reserve funds of districts with other available funds in order to be prepared for the projected shortfall in state moneys in Fiscal Year 2012; and

Be it further resolved: That the Secretary of State be directed to provide an enrolled copy of this resolution to the Commissioner of Education who shall provide copies to the chair-

person of the board of education of each school district and the superintendent of each school district.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following resolution was referred to Committee as indicated: Public Health and Welfare: **SR 1851**.

CHANGE OF REFERENCE

The President withdrew **HB 2172** from the Calendar under the heading of General Orders, and rereferred the bill to the Committee on **Assessment and Taxation**.

MESSAGE FROM THE GOVERNOR

SB 14, SB 219 approved on March 13, 2009.

COMMUNICATIONS FROM STATE OFFICERS

SENATE PRESIDENT

May 23, 2008

In accordance with KSA 2007 Supp. 75-7401, Stephen R. Morris, Senate President, reappointed E.J. "Ned" Holland to the Kansas Health Policy Authority for a term of four years which shall expire March 15, 2012.

KANSAS DEPARTMENT OF REVENUE

March 15, 2009

In accordance with KSA 79-1490, Mark S. Beck, Director, Division of Property Valuation, submitted the 2008 Preliminary Real Estate Appraisal/Sales Ratio Study.

KANSAS ADVISORY GROUP ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Ward Loyd, Chair, Kansas Advisory Group, submitted the 2008 Annual Report.

The President announced the above reports and appointment are on file in the office of the Secretary of the Senate and are available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2084, HB 2319, HB 2343, HB 2354**. Also, passage of **SB 5, SB 40, SB 86, SB 137**.

Also, passage of SB 84, as amended.

The House nonconcurs in Senate amendments to **HB 2158**, requests a conference and appoints Representatives Huebert, Schwab and Sawyer as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2084, HB 2319, HB 2343, HB 2354 were thereupon introduced and read by title.

ORIGINAL MOTION

On motion of Senator V. Schmidt, the Senate acceded to the request of the House for a conference on **HB 2158**.

The President appointed Senators V. Schmidt, Apple and Faust-Goudeau as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator D. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1852-

A RESOLUTION commemorating the sesquicentennial of the founding of the City of Iola, Kansas. WHEREAS, On January 1, 1859, a group of 50 pioneers gathered to form the Iola Town Company of which John W. Scott was elected president; and

WHEREAS, Iola, Kansas was established in 1859, making 2009 the sesquicentennial of its founding; and

WHEREAS, Iola was named in honor of Iola Colborn, who with her husband, Josiah F. Colborn, had settled in a log cabin near the future town site in 1857 and who built the first frame house in the new town; and

WHEREAS, In 1865 Iola became the county seat of Allen County; and

WHEREAS, Iola's population exploded during the Gas Boom era of 1894-1907, growing from a town of about 1,500 people to one of approximately 14,000, all as the result of the discovery and utilization of vast natural gas pools; and

WHEREAS, This tremendous natural gas supply furnished the fuel for the development of cement and brick plants, zinc smelters and other small manufacturing plants. Additionally, this economic boom resulted in publicly owned utilities, an electric railway, a public library building, multiple school buildings and a Grand Theater; and

WHEREAS, Even after the gas pools were largely exhausted, Iola continued to improve its community facilities and to serve the residents of Iola; and

WHEREAS, New industry such as Columbia Metal Products, Gates Rubber Company, Haldex Brake Corporation and Russell Stover Candies have helped to keep the Iola economy going strong; and

WHEREAS, The City of Iola has proudly served its citizens for the past 150 years and it looks forward to continuing to do so in the years ahead: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we commemorate the sesquicentennial of the founding of the City of Iola and celebrate the unique contributions that it has provided for its citizens and the State of Kansas; and

Be it further resolved: That the Secretary of the Senate be directed to provide eight enrolled copies of this resolution to Senator Derek Schmidt.

On emergency motion of Senator D. Schmidt SR 1852 was adopted unanimously.

A delegation from Iola was introduced by Senator D. Schmidt and welcomed by the Senators.

REPORT ON ENGROSSED BILLS

SB 224, SB 241, SB 248, SB 260 reported correctly engrossed March 13, 2009.

REPORT ON ENROLLED BILLS

SB 46, SB 77, SB 187 reported correctly enrolled, properly signed and presented to the Governor on March 16, 2009.

SR 1847, SR 1848, SR 1849, SR 1850 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 16, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HB 2260**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2260," as follows:

"SENATE Substitute for HOUSE BILL No. 2260

By Committee on Commerce

"AN ACT concerning the Kansas home inspectors professional competence and financial responsibility act; amending K.S.A. 2008 Supp. 58-4501, 58-4502, 58-4503, 58-4504, 58-4505, 58-4506, 58-4509, 58-4510, 58-4511 and 58-4512 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 58-4513.";

and the substitute bill be passed.

Committee on **Education** recommends **HB 2002**, as amended by House Committee, be amended on page 2, in line 29, by striking all after "72-6448."; by striking all in lines 30 through 38;

On page 3, by striking all in lines 6 through 35 and inserting the following:

"(a) As used in this section:

(1) "Pupil" has the meaning ascribed thereto by K.S.A. 72-6407, and amendments thereto.

(2) "School year" means school year 2009-2010, 2010-2011, 2011-2012 or 2012-2013.

(b) Each school year, the state board shall:

(1) Determine the number of pupils enrolled in each district on September 20;

(2) determine the number of pupils enrolled in each district on February 20;

(3) subtract the number determined under (1) from the number obtained under (2);

(4) if the number obtained under (3) is 25 or more, the enrollment of the district shall be determined on February 20;

(5) if the number obtained under (3) is at least 1% of the number determined under (1), the enrollment of the district shall be determined on February 20."; and the bill be passed as amended.

Committee on Ethics and Elections recommends SB 268 be passed.

Also, SB 267 be amended on page 1, after line 20, by inserting the following:

"(b) If a person submits an application for voter registration and also submits an application for an advance voting ballot during the period beginning the 20th day before the election and ending the 15th day before the election, such voter's advance voting ballot shall be provisional.";

And by relettering the remaining subsections accordingly;

On page 3, in line 36, after the period by inserting "Once a permanent advance voter has provided valid identification, or if such voter's registration has been verified pursuant to K.S.A. 25-2354, and amendments thereto, such voter shall not be required to provide identification in subsequent elections unless the voter:

(1) Changes the voter's name or residential address;

(2) moves out of the county or state; or

(3) is removed from the registration list and re-registers.";

On page 6, after line 11, by inserting the following:

"Any person applying for permanent advance voter status shall submit valid identification as provided in subsection (b) or (c) of this section. Once such permanent advance voter has provided valid identification, or if such voter's registration has been verified pursuant to K.S.A. 25 2354, and amendments thereto, such voter shall not be required to provide identification in subsequent elections unless the voter:

(1) Changes the voter's name or residential address;

(2) moves out of the county or state; or

(3) is removed from the registration list and re-registers.";

On page 8, in line 41, after "(4)" by inserting "request";

On page 11, after line 28, by inserting the following:

"(9) Any provisional advance voting ballot cast pursuant to K.S.A. 25-1122, and amendments thereto, shall be counted if the application for voter registration is determined by the county election officer to be valid and if the county board of canvassers determines that the ballot was properly cast and the voter has not otherwise voted at such election."; and the bill be passed as amended.

Committee on Judiciary recommends HB 2059; HB 2111, as amended by House Committee, be passed.

Committee on Local Government recommends HB 2155 be passed.

Committee on **Public Health and Welfare** recommends **HB 2297**, as amended by House Committee, be passed,

Also, SR 1851 be adopted.

HB 2010, as amended by House Committee, be amended on page 1, in line 33, by striking "depos-"; in line 34, by striking all before "credited"; in line 35, before the period, by inserting "until such time the balance exceeds \$100,000";

On page 2, in line 22, before the period, by inserting "within one year of the effective date of this section";

On page 9, after line 16, by inserting the following:

"Sec. 2. K.S.A. 2008 Supp. 65-28,127 is hereby amended to read as follows: 65-28,127. (a) Every responsible licensee who directs, supervises, orders, refers, accepts responsibility for, enters into practice protocols with, or who delegates acts which constitute the practice of the healing arts to other persons shall:

(1) Be actively engaged in the practice of the healing arts in Kansas;

(2) review and keep current any required practice protocols between the responsible licensee and such persons, as may be determined by the board;

(3) direct, supervise, order, refer, enter into a practice protocol with, or delegate to such persons only those acts and functions which the responsible licensee knows or has reason to believe such person is competent and authorized by law to perform can be competently performed by such person and is not in violation of any other statute or regulation;

(4) direct, supervise, order, refer, enter into a practice protocol with, or delegate to other persons only those acts and functions which are within the normal and customary specialty, competence and lawful practice of the responsible licensee;

(5) provide for a qualified, substitute licensee who accepts responsibility for the direction, supervision, delegation and practice protocols with such persons when the responsible licensee is temporarily absent;

(6) comply with all rules and regulations of the board establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(b) "Responsible licensee" means a person licensed by the state board of healing arts to practice medicine and surgery or chiropractic who has accepted responsibility for the actions of persons who perform acts pursuant to practice protocols with, or at the order of, or referral, direction, supervision or delegation from such responsible licensee.

(c) Except as otherwise provided by rules and regulations of the board implementing this section, the physician assistant licensure act shall govern the direction and supervision of physician assistants by persons licensed by the state board of healing arts to practice medicine and surgery.

(d) Nothing in subsection (a)(4) shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing anesthesia care by a registered nurse anesthetist pursuant to K.S.A. 65-1158 and amendments thereto.

(e) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing physical therapy services pursuant to K.S.A. 65-2901 et seq. and amendments thereto.

(f) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from entering into a co-management relationship with an optometrist pursuant to K.S.A. 65-1501 et seq. and amendments thereto.

(g) The board may adopt rules and regulations establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(h) This section shall be part of and supplemental to the Kansas healing arts act.";

And by renumbering the remaining sections accordingly;

On page 11, in line 12, before "65-28,128" by inserting "65-28,127 and"; also in line 12, by striking "is" and inserting "are";

On page 1, in the title, in line 11, before the semicolon, by inserting "and delegation of practice"; in line 13, before "65-28,128" by inserting "65-28,127 and"; in line 14, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on Transportation recommends SB 274 be passed.

SB 293 be amended on page 1, following the enacting clause by inserting the following: "Section 1. K.S.A. 2008 Supp. 8-126 is hereby amended to read as follows: 8-126. The following words and phrases when used in this act shall have the meanings respectively ascribed to them herein:

(a) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor vehicle" means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

(c) "Truck" means a motor vehicle which is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

 (\tilde{d}) "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined.

(e) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

(f) "Farm tractor" means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

(g) "Road tractor" means every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

(h) "Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(i) "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(j) "Pole trailer" means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

(k) "Specially constructed vehicle" means any vehicle which shall not have been originally constructed under a distinctive name, make, model or type, or which, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

(l) "Foreign vehicle" means every motor vehicle, trailer or semitrailer which shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

(m) "Person" means every natural person, firm, partnership, association or corporation.

(n) "Owner" means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this act.

(o) "Nonresident" means every person who is not a resident of this state.

(p) "Manufacturer" means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

(q) "New vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles and who holds a dealer's contract therefor from a manufacturer or distributor and who has an established place of business in this state.

(r) "Used vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state and who does not hold a dealer's contract for the sale of new motor vehicles, travel trailers, trailers or vehicles.

(s) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

(t) "Department" or "motor vehicle department" or "vehicle department" means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas.

(u) "Commission" or "state highway commission" means the director of vehicles of the department of revenue.

(v) "Division" means the division of vehicles of the department of revenue.

(w) "Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

(x) "Passenger vehicle" means every motor vehicle, as herein defined, which is designed primarily to carry 10 or fewer passengers, and which is not used as a truck.

(y) "Self-propelled farm implement" means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

(z) "Farm trailer" means every trailer as defined in subsection (h) of this section and every semitrailer as defined in subsection (i) of this section, designed and used primarily as a farm vehicle.

(aa) "Motorized bicycle" means every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has:

(1) A motor which produces not more than 3.5 brake horsepower;

(2) a cylinder capacity of not more than 130 cubic centimeters;

(3) an automatic transmission; and

(4) the capability of a maximum design speed of no more than 30 miles per hour.

(bb) "All-terrain vehicle" means any motorized nonhighway vehicle $\frac{48}{50}$ inches or less in width, having a dry weight of $\frac{1,000}{1,500}$ pounds or less, traveling on three or more lowpressure non-highway tires, having a seat designed to be straddled by the operator. As used in this subsection, low-pressure non-highway tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of $\frac{12}{12}$ 14 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(cc) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

(1) A farm tractor;

(2) a self-propelled farm implement;

(3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;

(4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;

(5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.

 $(\rm dd)$ "Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person that is incapable of a speed in excess of 15 miles per hour.

(ee) "Oil well servicing, oil well clean-out or oil well drilling machinery or equipment" means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is an oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

(ff) "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

(gg) "Electronic certificate of title" means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 2008 Supp. 8-135d, and amendments thereto.

(hh) "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck. (ii) "Micro utility truck" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 144 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. "Micro utility truck" does not include a work-site utility vehicle.";

And by renumbering the remaining sections accordingly;

Also on page 1, in line 24, by striking "8-1402a is" and inserting "8-126 and 8-1402a are"; In the title, in line 10, following "Supp." by inserting "8-126 and"; in line 11, by striking "section" and inserting "sections" and the bill be passed as amended.

HB 2130 be amended on page 2, in line 43, by striking "\$10,000" and inserting "\$20,000"; and the bill be passed as amended.

HB 2131 be amended on page 1, after line 21, by inserting the following:

"Sec. 2. K.S.A. 2008 Supp. 8-132 is hereby amended to read as follows: 8-132. (a) Subject to the provisions of this section and K.S.A. 8-1,125, and amendments thereto, the division of vehicles shall furnish to every owner whose vehicle shall be registered one license plate for such vehicle. Such license plate shall have displayed on it the registration number assigned to the vehicle and to the owner thereof, the name of the state, which may be abbreviated, and the year or years for which it is issued. The same type of license plates shall be issued for passenger motor vehicles, rented without a driver, as are issued for private passenger vehicles.

(b) During calendar year 1975 commencing on the effective date of this act, and during every fifth calendar year thereafter, the division of vehicles shall furnish one license plate for any type of vehicle an owner registers or has the registration thereof renewed, but during the succeeding four-year period following calendar year 1975 and during the succeeding four-year period following every fifth calendar year subsequent to 1975, the division of vehicles shall not furnish any license plate for the renewal of a vehicle's registration. During calendar year 1976 and during each calendar year thereafter in which a license plate is not issued for the renewal of registration of a vehicle, the division of vehicles shall furnish one decal for the license plate issued for a vehicle as provided in K.S.A. 8-134, and amendments thereto, for each registration and renewal of registration of such vehicle. Notwithstanding the foregoing provisions of this subsection, whenever, in the discretion of the director of vehicles, it is determined that the license plates currently being issued and displayed are not deteriorating to the extent that their replacement is warranted, the director may adopt rules and regulations to extend the five-year issuance cycle provided for in this subsection by one year at a time, and in the same manner the director may further extend such cycle by one year at a time, successively as the director determines appropriate. If the cycle is extended at the expiration of the extended term, new license plates shall again be issued in the manner and for the term provided in such rules and regulations, except that the owner of a motor vehicle currently registered may continue to display the license plate currently being issued and displayed for a period not to exceed three registration years from the date of the expiration of the extended term. The division shall furnish one decal for each such license plate in accordance with the provisions [of] this subsection.

(c) Two personalized license plates may be issued to any owner or lessee of a passenger vehicle or a truck licensed for a gross weight of not more than 20,000 pounds, who makes proper application to the division of vehicles not less than 60 days prior to such owner's or lessee's renewal of registration date. Such application shall be on a form prescribed by the division and accompanied by a fee of \$40, which shall be in addition to any other fee required to renew the registration of such passenger vehicle under the laws of this state. One such personalized license plate shall be displayed on the rear of the vehicle and, at the option of the owner or lessee, the other license plate may be displayed on the front of the vehicle, except that no registration decal shall be issued pursuant to K.S.A. 8-134, and amendments thereto, for any such license plate displayed on the front of such vehicle. One personalized license plate may be issued to any owner of a motorcycle upon proper application in the same manner provided in this subsection (c) for passenger vehicles and trucks. The \$40 fee shall be paid only once during the registration period for which such license plates were issued, and any subsequent renewals during the registration period shall be subject only to the registration fee prescribed by K.S.A. 8-143, and amendments thereto. The division shall be paid only once during the registration period shall be subject only to the registration fee prescribed by K.S.A. 8-143, and amendments thereto.

design distinctive, personalized license plates to be issued which shall contain not more than seven letters or numbers on truck or passenger vehicle license plates and not more than five letters or numbers on motorcycle license plates, or a combination thereof, to be designated by the applicant in lieu of the letters and numbers required by K.S.A. 8-147, and amendments thereto, other than the letters required to designate the county in which such vehicle is registered. Unless the letters or numbers designated by the applicant have been assigned to another vehicle of the same type registered in the same county, or unless the letters or numbers designated by the applicant have a profane, vulgar, lewd or indecent meaning or connotation, as determined by the director of vehicles, the division shall assign such letters or numbers to the applicant's vehicle, and the letters or numbers, or combination thereof, so assigned shall be deemed the registration number of such vehicle. Subject to the foregoing provisions, all license plates issued under this section shall be manufactured in accordance with K.S.A. 8-147, and amendments thereto. Such license plates shall be issued for a registration period of five years commencing in 1985 and each five years thereafter.

The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions of this act, including, without limitation, rules and regulations concerning (1) the procedure for insuring that duplicate license plates are not issued in the same county *throughout the state*, (2) the procedure for reserving distinctive license plates for the purpose of obtaining the same on each annual renewal of registration, (3) the procedure for allowing the transfer of personalized license plates from one vehicle to another for which such license plates were originally issued, when the title to the original vehicle has not been transferred and the name or names of the owner or owners listed on the titles to both vehicles are identical, and (4) procedures necessary to coordinate this act with other laws of this state governing registration of vehicles. The director of vehicles shall remit all moneys received by the division of vehicles under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.";

And by renumbering the remaining sections accordingly;

Also on page 1, in line 22, by striking "is" and inserting "and K.S.A. 2008 Supp. 8-132 are";

In the title, in line 10, after the semicolon by inserting "relating to personalized license plates;"; also in line 10, after "and" by inserting "K.S.A. 2008 Supp. 8-132 and"; in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

HB 2134 be amended on page 1, in line 32, before the period by inserting ", except that the division shall delay the manufacturing and issuance of such distinctive license plate until the division has received \$40,000 from the collection of the personalized license plate fee required under subsection (a). The personalized license plate fees collected pursuant to this section shall be credited to the distinctive license plate fund in accordance with subsection (f)(2), until the division has received such \$40,000"; in line 36, by striking "\$10,000" and inserting "\$20,000"; and the bill be passed as amended.

HB 2258, as amended by House Committee of the Whole, be amended on page 8, in line 26, by striking all following "hicles"; by striking all in line 27; in line 28, by striking all preceding the period and inserting ", in whole or in part"; and the bill be passed as amended. Committee on Ways and Means recommends SB 313 be passed.

Also, SCR 1614 be adopted.

SB 306 be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

SB 146 be amended on page 1, in line 16, by striking "When" and inserting "On and after the effective date of this act, when"; in line 30, after the period by inserting "The state agency which places an officer or employee on furlough shall pay and remit required employer and employee contributions to the system pursuant to the state payroll system during the period such officer or employee is placed on furlough."; in line 35, after "services" by inserting ", including, but not limited to, the compilation of records of furlough plans in effect by state agencies and officers or employees who have been placed on furlough"; in line 43, after "member" by inserting "or employees";

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On page 2, in line 1, after "regents" by inserting "who are members of the Kansas public employees retirement system, the Kansas police and firemen's retirement system or the retirement system for judges"; after line 1, by inserting a new section to read as follows:

"New Sec. 2. In order to achieve maximum flexibility in facilitating agencies to provide continuing services without unnecessarily closing offices or programs during furloughs, all agencies shall develop plans for furloughs that shall provide for furloughs on an hourly basis away from work during a regular 40-hour work week and shall compute the hours absent from work during each two-week pay period for reporting purposes. No office or program shall be closed as a result of all-day layoffs unless all other alternatives using hourly layoffs have been determined to not produce the budget savings necessary.";

And by renumbering sections accordingly;

On page 1, in the title, in line 9, after "concerning" by inserting "state officers and employees; relating to furloughs or reduction in compensation;"; also in line 9, by striking the semicolon; in line 10, by striking "relating to" and inserting a comma; also in line 10, by striking all following "benefits"; in line 11, by striking all before the semicolon; and the bill be passed as amended.

SB 205 be amended on page 2, in line 13, before the period, by inserting "or approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto, except that such approval may be given while the legislature is in session"; also in line 13, by striking all after the period; by striking all in lines 14 and 15; in line 25, by striking all after the period; by striking all in lines 26 through 29; in line 30, by striking all before "No"; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Emler the following report was adopted:

SB 208 be amended by adoption of the committee amendments.

Citing rule 51, Senator D. Schmidt made a motion to strike the enacting clause. Senator D. Schmidt withdrew the motion. Citing rule 26, Senator D. Schmidt made a motion to rerefer **SB 208** to the Judiciary Committee.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, March 17, 2009.

Journal of the Senate

FORTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Tuesday, March 17, 2009—2:30 p.m.

The Senate was called to order by Vice President John Vratil. The roll was called with thirty-eight senators present. Senators Hensley and Wysong were excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I'd like to begin by quoting one of St. Patrick's prayers:

"I rise today, through God's might to uphold me, God's wisdom to guide me, God's eye to look before me, God's ear to hear me, God's hand to guard me, God's way to lie before me and God's shield to protect me."

St. Patrick's Day is celebrated in many ways. As for me, it is a good time to thank You for making saints out of sinners.

You made a saint out of a sinner named Peter; You made a saint out of a sinner named Paul. You've made saints out of so many sinners, Only You know the names of them all.

You made saints out of sinners in Corinth, A city known for its sin. You made saints out of sinners in Athens Who were never the same again.

We celebrate the day of St. Patrick, And rejoice over the life of St. Paul, But when sinners become saints in Topeka, It's the biggest celebration of all!

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

POINT OF PERSONAL PRIVILEGE

Senator Apple rose on a point of personal privilege to introduce a 4-H group from Franklin County who was in the Capitol to study citizenship.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 322. An act concerning fire insurance premiums; relating to the emergency medical services board operating fund and the fire service training program fund; amending K.S.A. 2008 Supp. 75-1514 and repealing the existing section, by Committee on Ways and Means.

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SB 323, An act relating to transportation; providing for a transportation program; concerning the financing thereof; creating the joint committee on multimodal transportation; amending K.S.A. 8-143b, 8-143c, 8-143g, 8-143h, 8-143i, 8-143k, 8-195, 8-234b, 8-2406, 8-2409, 8-2425, 68-416, 68-2316, 68-2320 and 68-2321 and K.S.A. 2008 Supp. 8-142, 8-143, 8-143j, 8-143j, 8-145, 8-172, 68-2315, 68-2331, 75-5035, 75-5048, 75-5061, 75-5160, 79-3408c, 79-3491a, 79-34,92b, 79-34,118, 79-34,141, 79-34,142, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections; also repealing K.S.A. 68-2314a, by Committee on Ways and Means.

SB 324, An act concerning the Kansas commission on rural policy; amending K.S.A. 2008 Supp. 74-99e02 and 74-99e04 and repealing the existing sections, by Committee on Ways and Means.

SB 325. An act concerning employment security law; relating to alternative base periods and benefits for individuals forced to leave employment to care for an ill or disabled family member; amending K.S.A. 2008 Supp. 44-703, 44-705 and 44-706 and repealing the existing sections, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were referred to Committees as indicated:

Agriculture: **SB 316**. Assessment and Taxation: **HB 2319**.

Iudiciary: SCR 1615: HB 2084.

Natural Resources: **SB 315**.

Public Health and Welfare: HB 2343.

Ways and Means: SB 317, SB 318, SB 319, SB 320, SB 321; SCR 1616; HB 2354.

REFERRAL OF APPOINTMENTS

The following appointment made by the Senate President and submitted to the senate for confirmation, was referred to Committee as indicated:

Kansas Health Policy Authority: E.J. "Ned" Holland, to serve a term of four years, expiring March 15, 2012

(Ways and Means)

MESSAGE FROM THE HOUSE

Announcing passage of HB 2032, HB 2299, HB 2324.

Announcing passage of SB 50, SB 240.

Also, passage of SB 34, as amended, SB 161, as amended.

The House nonconcurs in Senate amendments to **HB 2121**, requests a conference and appoints Representatives Powell, Fund and Svaty as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2265**, requests a conference and appoints Representatives Morrison, Burgess and Trimmer as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2032, HB 2299, HB 2324 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Pilcher-Cook moved the Senate concur in house amendments to **H Sub for SB 238.**

H Sub for SB 238, An act concerning abortion; regarding the woman's right-to-know act; amending K.S.A. 65-6709 and 65-6710 and repealing the existing sections.

On roll call, the vote was: Yeas 32, Nays 6, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Taddiken, Teichman, Umbarger, Vratil, Wagle. Nays: Faust-Goudeau, Francisco, Haley, Holland, Schodorf, Steineger. Absent or Not Voting: Hensley, Wysong. The Senate concurred.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote "No" on the Conference Committee Report on the House Substitute for **SB 238.**

Although I honestly believe that knowledge is empowering and that every woman, even during the anxiety associated with a crisis pregnancy, should have as much information about her abortion as possible . . . this bill increases both the cost (by providing an ultrasound per procedure) and the coercion (with an additional "waiting period" and "offer" to "view a picture"), to add to the already potentially distressed patient. Further, this bill once again codifies a misnomer by confusing the medically correct term "fetus" with the invasively inflammatory term "unborn child".—DAVID HALEY

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **SB 84** and requested a conference committee be appointed.

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

REPORTS OF STANDING COMMITTEES

Committee on Assessment and Taxation recommends SB 255; HB 2079 be passed. Committee on Federal and State Affairs recommends SB 307 be passed.

Committee on **Judiciary** recommends **SB 269; HB 2236**, as amended by House Committee, be passed.

Committee on **Transportation** recommends **Sub HB 2143**, as amended by House Committee of the Whole, be passed.

Committee on Utilities recommends SB 299 be passed.

Committee on **Ways and Means** recommends **HB 2219**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2219," as follows:

"SENATE Substitute for HOUSE BILL No. 2219

By Committee on Ways and Means

"AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; purchase of service credit; state and school employer contribution rate; amending K.S.A. 2008 Supp. 74-4920 and repealing the existing section.";

and the substitute bill be passed.

COMMITTEE OF THE WHOLE

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

On motion of Senator Donovan the following report was adopted:

Recommended: SB 300; HB 2054 be passed.

SB 218; HB 2052, HB 2098, HB 2171, HB 2233 be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee report on SB 214, recommending a Sub SB 214, be adopted, and the substitute bill be passed.

SCR 1610 be adopted.

Senator Teichman moved to amend **HB 2185**, as amended by House Committee, on page 3, in line 36, by striking "shall" and inserting "may", and **HB 2185** be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, March 18, 2009.

Journal of the Senate

FORTY-SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, March 18, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-nine senators present. Senator Pilcher-Cook was excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Sometimes I have found words to fit an acrostic help us to remember things better. Help us take seriously the acrostic based on LEGISLATOR. Help us to be:

L istening rather than loquacious

E neouraging rather than encroaching

G iving more than getting

I nteresting rather than an introvert

S trong rather than stringent

L ifting rather than letting down

A vailable rather than aloof

T ough and tender

O bedient rather than obstinate

R epentant rather than rebellious

Most of all, help us to trust You, O God, for wisdom to make decisions pleasing to you.

I pray in the Name of Jesus Christ,

Amen

The Pledge of Allegiance was led by President Stephen Morris.

POINT OF PERSONAL PRIVILEGE

Senator Taddiken rose on a point of personal privilege to introduce Don and Dorothy Kramer from Marysville. Mr. Kramer is the brother of the Secretary of the Senate, Pat Saville.

Senator Kultala rose on a point of personal privilege to introduce Jeff Wingo, Gerald Henderson, Sue Pelletier, Joey Studinka, Dan Wesel, Jeff Porter, Gordon Cunningham, Nate Weidum, Nolan Sunderman, Rick Dodson, Joe Sebes, Karen Harris and Cassandra Lincoln, who were guests representing the Leadership Leavenworth Lansing Program.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 326, An act concerning crime victims; relating to the crime victims compensation fund and the crime victims assistance fund; amending K.S.A. 2008 Supp. 75-752 and repealing the existing section, by Committee on Ways and Means.

SB 327, An act concerning tobacco; relating to the master settlement agreement; creating the master settlement agreement compliance fund; amending K.S.A. 38-2101 and repealing the existing section, by Committee on Ways and Means.

SB 328, An act concerning the Kansas health policy authority; relating to primary health projects, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: HB 2299, HB 2324.

Commerce: SB 324, SB 325.

Local Government: HB 2032.

Transportation: SB 323.

Ways and Means: SB 322.

CHANGE OF REFERENCE

The President withdrew HB 2130 from the Calendar under the heading of General Orders, and referred the bill to the Committee on Federal and State Affairs.

MESSAGE FROM THE GOVERNOR

March 6, 2009

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Directive No. 09-396 for your information.

Sincerely, KATHLEEN SEBELIUS Governor

The President announced Executive Directive No. 09-396, Authorizing Expenditure of Federal Funds, is on file in the office of the Secretary of the Senate and is available for review at any time.

COMMUNICATIONS FROM STATE OFFICERS

COMMISSION ON JUDICIAL QUALIFICATIONS

March 17, 2009

Carol G. Green, Secretary, submitted the Commission's 2008 Annual Report. Annual Reports for Calendar Years 2006-2008 are online at www.kscourts.org under "Commission on Judicial Qualifications".

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of Substitute HB 2008; HB 2072, HB 2325. Announcing passage of SB 115, SB 122, SB 123, SB 148, SB 156. Also, passage of SB 131, as amended.

The House accedes to the request of the Senate for a conference on SB 84 and has appointed Representatives Aurand, Horst and Winn as conferees on the part of the House. The House concurs in Senate amendments to HB 2197.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

Substitute HB 2008; HB 2072, HB 2325 were thereupon introduced and read by title.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

Sub SB 214, An act concerning solid waste; relating to the waste tire management fund; amending K.S.A. 2008 Supp. 65-3424g and repealing the existing section, was considered on final action.

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

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Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Pilcher-Cook.

The substitute bill passed.

SB 218, An act concerning alcoholic beverages; relating to farm wineries; authorizing certain permits and licenses, and activities by wine outlets; amending K.S.A. 41-305 and K.S.A. 2008 Supp. 41-308a and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Pilcher-Cook.

The bill passed, as amended.

SB 300, An act regulating traffic; concerning permits for oversize or overweight vehicles; fees; amending K.S.A. 2008 Supp. 8-1911 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Pyle.

Absent or Not Voting: Pilcher-Cook.

The bill passed.

SCR 1610, A concurrent resolution urging the Environmental Protection Agency to authorize the use of higher blends of ethanol in non-flex fuel vehicles, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Pilcher-Cook.

The resolution was adopted.

HB 2052, An act relating to insurance; concerning the life and health insurance guaranty association; amending K.S.A. 2008 Supp. 40-3008 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Pilcher-Cook.

The bill passed, as amended.

HB 2054, An act relating to insurance; concerning title insurance; amending K.S.A. 40-1137 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Pilcher-Cook.

The bill passed.

HB 2098, An act concerning crimes, punishment and criminal procedure; relating to sexual offenses; electronic solicitation; evidence in certain prosecutions; aggravated habitual sex offenders; amending K.S.A. 21-3523, 21-3525 and 21-4642 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Pilcher-Cook.

The bill passed, as amended.

HB 2171, An act concerning the Kansas commission on veterans affairs; relating to the membership thereof; relating to the veterans claims assistance program and the veterans claims assistance advisory board; creating the Vietnam war era medallion program; amending K.S.A. 73-1208a and K.S.A. 2008 Supp. 73-1234 and 73-1235 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Pilcher-Cook.

The bill passed, as amended.

HB 2185, An act relating to public moneys; concerning reciprocal deposit programs; amending K.S.A. 9-1407 and K.S.A. 2008 Supp. 12-1675 and 75-4237 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Pilcher-Cook.

The bill passed, as amended.

HB 2233, An act concerning criminal procedure; relating to withdrawal of guilty pleas; jury selection; alternate or additional jurors; appeals; release or discharge of defendant; amending K.S.A. 22-3210, 22-3412 and 22-3604 and repealing the existing sections, was considered on final action.

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

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Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Pilcher-Cook.

The bill passed, as amended.

ORIGINAL MOTION

On motion of Senator Taddiken, the Senate acceded to the request of the House for a conference on **HB 2121**.

The President appointed Senators Taddiken, Ostmeyer and Francisco as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2265**.

The President appointed Senators McGinn, Vratil and Hensley as conferees on the part of the Senate.

REPORT ON ENGROSSED BILLS

SB 218 reported correctly engrossed March 17, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Agriculture recommends SB 316 be passed.

Committee on Federal and State Affairs recommends HB 2311 be passed.

Also, **SB 201** be amended on page 1, in line 15, before "The" by inserting "(a)"; in line 16, by striking "in-"; by striking all in lines 17 through 24 and inserting "on a day designated by the governor to honor those members of the Kansas national guard, the Kansas air national guard and Kansas residents serving as members of the United States armed forces or the reserve forces killed in the line of duty. Such day may be designated as the first Thursday of each month."; after line 24, by inserting the following:

"(b) On any day designated by the governor for displaying the flag of the United States at half-staff pursuant to this section, the governor shall publish a list of those individuals described in subsection (a) who were killed in the line of duty in the immediately preceding month, unless an immediate family member of such individual has submitted a request to the governor that such individual's name not be included in such list.";

and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 92** be amended on page 1, after line 13, by inserting the following:

"Section 1. K.S.A. 2008 Supp. 38-2202 is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

(a) "Abandon" or "abandonment" means to forsake, desert or, without making appropriate provision for substitute care, cease providing care for the child.

(b) "Adult correction facility" means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.

(c) "Aggravated circumstances" means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

(d) "Child in need of care" means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 2008 Supp. 38-2242, and amendments thereto, who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;

(2) is without the care or control necessary for the child's physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;(4) has been placed for care or adoption in violation of law;

(4) has been placed for care of adoption in violation of law;

(5) has been abandoned or does not have a known living parent;

(6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;

(7) except in the case of a violation of K.S.A. 21-4204a, 41-727, subsection (j) of K.S.A. 74-8810 or subsection (m) or (n) of K.S.A. 79-3321, and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105, and amendments thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian;

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee;

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused;

(12) while less than 10 years of age commits the offense defined in K.S.A. 21-4204a, and amendments thereto; or

(13) has had a permanent custodian appointed and the permanent custodian is no longer able or willing to serve.

(e) "Citizen review board" is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 2008 Supp. 38-2207 and 38-2208, and amendments thereto.

(f) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2008 Supp. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

(g) "Custody" whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(h) "Extended out of home placement" means a child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the home.

(i) "Educational institution" means all schools at the elementary and secondary levels.

(j) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and amendments thereto.

(k) "Harm" means physical or psychological injury or damage.

(l) "Interested party" means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 2008 Supp. 38-2241, and amendments thereto or Indian tribe seeking to intervene that is not a party.

(m) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

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(n) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which must not be a jail.

(o) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(p) "Kinship care" means the placement of a child in the home of the child's relative or in the home of another adult with whom the child or the child's parent already has a close emotional attachment.

(q) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(r) "Multidisciplinary team" means a group of persons, appointed by the court under K.S.A. 2008 Supp. 38-2228, and amendments thereto, which has knowledge of the circumstances of a child in need of care.

(s) "Neglect" means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child's parents or other custodian. Neglect may include, but shall not be limited to:

(1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;

(2) failure to provide adequate supervision of a child or to remove a child from a situation which requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to subsection (a)(2) of K.S.A. 2008 Supp. 38-2217, and amendments thereto.

(t) "Parent" when used in relation to a child or children, includes a guardian and every person who is by law liable to maintain, care for or support the child.

(u) "Party" means the state, the petitioner, the child, any parent of the child and an Indian child's tribe intervening pursuant to the Indian child welfare act.

(v) "Permanency goal" means the outcome of the permanency planning process which may be reintegration, adoption, appointment of a permanent custodian or another planned permanent living arrangement.

(w) "Permanent custodian" means a judicially approved permanent guardian of a child pursuant to K.S.A. 2008 Supp. 38-2272, and amendments thereto.

(x) "Physical, mental or emotional abuse" means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered.

(y) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(z) "Relative" means a person related by blood, marriage or adoption but, when referring to a relative of a child's parent, does not include the child's other parent.

(aa) "Secretary" means the secretary of social and rehabilitation services or the secretary's designee.

(bb) "Secure facility" means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

(cc) "Sexual abuse" means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual

abuse shall include allowing, permitting or encouraging a child to engage in prostitution or to be photographed, filmed or depicted in pornographic material.

(dd) "Shelter facility" means any public or private facility or home other than a juvenile detention facility that may be used in accordance with this code for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(ee) "Transition plan" means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

 $\frac{\langle ee \rangle}{\langle ff \rangle}$ "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.";

And by renumbering the remaining sections accordingly;

On page 2, in line 2, after "school" by inserting "unless there is no court approved transition plan, in which event jurisdiction may continue until a transition plan is approved by the court or until the child reaches the age of 21"; in line 7, after the stricken material by inserting "Any child 18 years of age or over may request, in writing to the court, that the jurisdiction of the court cease. The court shall give notice of the request to all parties and interested parties and 30 days after receipt of the request, jurisdiction will cease."; in line 12, after the stricken material by inserting "Except upon request of the child pursuant to subsection (c),"; in line 20, after "Supp," by inserting "38-2202 and"; also in line 20, by striking "is" and inserting "are";

In the title, in line 10, after "Supp." by inserting "38-2202 and"; in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

Also, **SB 94** be amended on page 1, in line 26, after "child" by inserting "has no identifiable parental or family resources or";

On page 3, in line 39, after "child" by inserting "has no identifiable parental or family resources or";

On page 5, in line 37, after "child" by inserting "has no identifiable parental or family resources or";

On page 7, in line 33, after "child" by inserting "has no identifiable parental or family resources or"; and the bill be passed as amended.

HB 2164 be amended on page 1, after line 12, by inserting the following:

"Section 1. K.S.A. 20-2207 is hereby amended to read as follows: 20-2207. (a) The judicial council may fix, charge and collect fees for sale and distribution of legal publications in order to recover direct and indirect costs incurred for preparation, publication and distribution of legal publications. The judicial council may request and accept gifts, grants and donations from any person, firm, association or corporation or from the federal government or any agency thereof for preparation, publications.

(b) The publications fee fund of the judicial council which was established in the state treasury pursuant to appropriation acts is hereby continued in existence and shall be administered by the judicial council. Revenue from the following sources shall be deposited in the state treasury and credited to such fund:

 $\left(1\right)$ All moneys received by or for the judicial council from fees collected under this section; and

(2) all moneys received as gifts, grants or donations for preparation, publication or distribution of legal publications.

(c) Moneys deposited in the publications fee fund of the judicial council may be expended for operating expenditures related to preparation, publication and distribution of legal publications of the judicial council and for operating expenses that are not related to publication activities, *including expenditures to fund the Kansas criminal code recodification commission on July 1*, 2009, *through June 30*, 2010.

(d) All expenditures from the publications fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the judicial council or the chairperson's designee.

Sec. 2. K.S.A. 20-2208 is hereby amended to read as follows: 20-2208. There is hereby established in the state treasury the judicial council fund. All expenditures from the judicial council fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved by the chairperson of the Kansas judicial council or by a person or persons designated by the chairperson of the Kansas judicial council. *Expenditures from the judicial council fund may be made to fund the Kansas criminal code recodification commission on July 1*, 2009, through June 30, 2010.";

Also on page 1, in line 19, by striking "Any judge upon reaching age 75 shall retire, except that"; in line 21, by striking "when any judge attains the age of 75, such judge may, if"; by striking all in line 22; in line 23, by striking "the age of 75.";

On page 2, after line 13, by inserting the following:

"Sec. 4. K.S.A. 2008 Supp. 20-3002 is hereby amended to read as follows: 20-3002. (a) On and after January 1, 2008, through December 31, 2009 2010, the court of appeals shall consist of 13 judges whose positions shall be numbered one to 13. On and after January 1, 2010 2011, the court of appeals shall consist of 14 judges whose positions shall be numbered one to 14. Judges of the court of appeals shall possess the qualifications prescribed by law for justices of the supreme court.

(b) Judges of the court of appeals shall be selected in the manner provided by K.S.A. 20-3003 through 20-3010, and amendments thereto. Each judge of the court of appeals shall receive an annual salary in the amount prescribed by law. No judge of the court of appeals may receive additional compensation for official services performed by the judge. Each such judge shall be reimbursed for expenses incurred in the performance of such judge's official duties in the same manner and to the same extent justices of the supreme court are reimbursed for such expenses.

(c) The supreme court may assign a judge of the court of appeals to serve temporarily on the supreme court.

(d) Any additional court of appeals judge position created by this section shall be considered a position created by the supreme court and not a civil appointment to a state office pursuant to K.S.A. 46-234, and amendments thereto.

Sec. 5. K.S.A. 2008 Supp. 20-3202 is hereby amended to read as follows: 20-3202. (a) The commission shall consist of thirteen members appointed by the judicial council. The council shall appoint commission members of outstanding competence and reputation. Six members of the commission shall be non-lawyers and six members of the commission shall be lawyers, justices or judges. The judicial council shall appoint the chair of the commission, who shall be a lawyer, justice or judge. At least one non-lawyer commission member and at least one lawyer, justice or judge commission member shall reside in each congressional district. The rules of the commission shall provide that the terms of the commission members are staggered.

(b) For the purposes of K.S.A. 20-3201 through 20-3207, and amendments thereto, the commission shall not be subject to the Kansas open meetings act as provided in K.S.A. 75-4317 et seq., and amendments thereto.

(c) As used in K.S.A. 20-3201 through 20-3207, and amendments thereto:

(1) "Lawyer" means an attorney registered as active pursuant to supreme court rule.

(2) "Judge" means: a current or retired Kansas judge of the district court; *and* a current or retired judge of the Kansas court of appeals; and a retirant serving as a judge under written agreement with the Kansas supreme court pursuant to K.S.A. 20-2622, and amend-ments thereto.

(3) "Justice" means a current or retired justice of the Kansas supreme court.

Sec. 6. K.S.A. 2008 Supp. 20-3205 is hereby amended to read as follows: 20-3205. (a) The surveys of court users, survey results and judicial performance evaluation results are confidential and shall not be disclosed except as provided in subsection (d) or in accordance with the rules of the commission or the Kansas supreme court.

(b) Any statute or rule that restricts public access to certain types of court records or certain types of information contained in court records shall not prohibit the commission or agents of the commission from having access to the names and addresses of appropriate persons named in such records and other information necessary for the discharge of the commission's duties pursuant to article 32 of chapter 20 of the Kansas Statutes Annotated, and amendments thereto. No confidential information found in such court records shall be revealed to any other person by the commission or agents of the commission.

(c) The evaluation of judges subject to political elections shall be used solely for selfimprovement. A judge subject to political elections shall not reveal data from any portion of the survey or the results of the survey.

(d) Judicial performance evaluation results of a retirant serving as a judge under written agreement with the Kansas supreme court pursuant to K.S.A. 20-2622, and amendments thereto, shall be public and shall be used by the Kansas supreme court for the determination of a continuing agreement pursuant to K.S.A. 20-2622, and amendments thereto.

Sec. 7. K.S.A. 20-3207 is hereby amended to read as follows: 20-3207. On and after July 1, 2006, there is hereby established in the state treasury the judicial performance fund. All moneys credited to the fund shall be used for the judicial performance evaluation process, except on July 1, 2009, through June 30, 2010, moneys credited to the fund may be used to fund the Kansas criminal code recodification commission. All expenditures from the judicial performance fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved by the chairperson of the Kansas judicial council or by the person or persons designated by the chairperson of the Kansas judicial council.";

And by renumbering the sections accordingly;

Also on page 2, in line 14, by striking "20-2608 is" and inserting "20-2207, 20-2208, 20-2608 and 20-3207 and K.S.A. 2008 Supp. 20-3002, 20-3202 and 20-3205 are"; in line 16, by striking "statute book" and inserting "Kansas register";

In the title, in line 9, after "concerning" by inserting "courts; relating to the judicial council; the commission on judicial performance; funding the Kansas criminal code recodification commission; the court of appeals;"; also in line 9, by striking "relating to"; in line 10, by striking "20-2608" and inserting "20-2207, 20-2208, 20-2608 and 20-3207 and K.S.A. 2008 Supp. 20-3002, 20-3202 and 20-3205"; also in line 10, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 220** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 220," as follows:

"Substitute for SENATE BILL No. 220

By Committee on Public Health and Welfare

"AN ACT concerning emergency medical services; amending K.S.A. 65-6110, 65-6126, 65-6127, 65-6132, 65-6133 and 65-6135 and K.S.A. 2008 Supp. 44-131, 65-6112 and 65-6124 and repealing the existing sections.";

and the substitute bill be passed.

Committee on **Utilities** recommends **SB 298** be amended on page 1, in line 19, by striking "The" and inserting "Within 12 months after the effective date of this section, the"; and the bill be passed as amended.

Committee on Ways and Means begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the President of the Senate:

Kansas Health Policy Authority: K.S.A. 2008 Supp. 75-7401

E. J. "Ned" Holland, Jr., term expires March 15, 2012

Joe Lee Tilghman, term expires March 15, 2012

By the Speaker of the House of Representatives:

Kansas Health Policy Authority: K.S.A. 2008 Supp. 75-7401 Garen Lorimer Cox, term expires March 15, 2012 Also, **SB 310** be amended on page 1, in line 37, by striking "cor-"; in line 38, by striking "rectional";

On page 2, in line 3, by striking "six" and inserting "eight"; after line 4, by inserting the following:

"(e) The secretary of social and rehabilitation services shall submit an annual report to the governor and the legislature during the first week of the regular legislative session detailing activities related to the transitional release and conditional release of sexually violent predators. The report shall include the status of such predators who have been placed in transitional release or conditional release including the number of any such predators and their locations; information regarding the number of predators who have been returned to the sexually violent predator treatment program at Larned state hospital along with the reasons for such return; and any plans for the development of additional transitional release or conditional release facilities."; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Huelskamp the following report was adopted:

Recommended: SB 247, SB 313; HB 2321 be passed.

The committee also recommended **Sub HB 2143** be passed.

A motion by Senator Pyle to amend **Sub HB 2143** failed and the following amendment was rejected: as amended by House Committee of the Whole, on page 3, following line 2, by inserting the following:

"(C) while going directly to or from any religious function;";

Also on page 3, following line 17, by inserting the following:

"(D) while going directly to or from any religious function;";

On page 4, following line 5, by inserting the following:

"(D) while going directly to or from any religious function;";

And by relettering paragraphs accordingly;

On page 12, in line 40, by striking "or"; preceding line 41, by inserting the following: "(C) while going directly to or from any religious function; or";

On page 13, in line 7, by striking "or"; preceding line 8, by inserting the following:

"(C) while going directly to or from any religious function; or";

And by relettering paragraphs accordingly

SB 22, SB 293; HB 2010, HB 2131, HB 2134 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 93 be amended by motion Senator Kelly, on page 1, in line 16, by striking "13" and inserting "seven"; also in line 16, by striking "five" and inserting "three"; in line 17, by striking "eight" and inserting "four"; in line 42, by striking "seven" and inserting "four" and **SB 93** be passed as amended.

SB 297 be amended by adoption of the committee amendments, be further amended by motion of Senator McGinn, as amended by Senate Committee, on page 2, after line 35, by inserting the following:

"Sec. 3 K.S.A. 46-269 is hereby amended to read as follows: 46-269. Each report required to be filed by K.S.A. 46-268, and amendments thereto, is a public record and shall be open to public inspection upon request. Such report shall disclose the following:

(a) The full name and address of each person who has paid compensation for lobbying to the lobbyist or has paid for expenses of lobbying by the lobbyist during the period reported.

(b) The aggregate amount or value of all expenditures made, except for expenses of general office overhead, by the lobbyist or by the lobbyist's employer for or in direct relation to lobbying during the reporting period, if such expenditures exceed \$100. Individual expenditures of less than \$2 shall not be required to be reported under this subsection. Every lobbyist shall keep detailed accounts of all expenditures required to be reported pursuant

to K.S.A. 46-268, and amendments thereto. Such expenditures shall be reported according to the following categories of expenditures:

(1) Food and beverages provided as hospitality;

(2) entertainment, gifts, honoraria or payments;

(3) mass media communications;

(4) recreation provided as hospitality;

(5) communications for the purpose of influencing legislative or executive action; and

(6) all other reportable expenditures made in the performance of services as a lobbyist. Whenever a lobbyist provides food or beverage or participates in the provision of food or beverage which is reportable under this subsection, the lobbyist shall include the date upon which such food or beverage is provided.

With regard to expenditures for entertainment or hospitality which is primarily recreation, food and beverages, only amounts expended on a state officer or employee or on such officer or employee's spouse shall be considered to be for or in direct relation to lobbying. Notwithstanding the requirements of this subsection and subsection (d), no lobbyist shall be responsible to report any expenditure by the lobbyist's employer of which such person has no knowledge.

(c) (1) In addition to the information reported pursuant to subsection (b), each lobbyist expending an aggregate amount of \$100 or more for lobbying in any reporting period shall report any gift, entertainment or hospitality provided to members of the legislature, members of the judicial branch of government and any employees of the legislature or judicial branch of government. Such report shall disclose the full name of the legislator, member of the judicial branch and employee who received such gift, entertainment or hospitality and the amount expended on such gift, entertainment or hospitality.

(2) No report shall be required to be filed pursuant to this subsection (c) for the following:(A) Meals, the provision of which is motivated by a personal or family relationship;

(B) meals provided at public events in which the person is attending in an official capacity;

(C) meals provided to a person subject to this section when it is obvious such meals are not being provided because of the person's official position;

(D) food such as soft drinks, coffee or snack foods not offered as part of a meal; and

(E) entertainment or hospitality in the form of recreation, food and beverages provided at an event to which the following have been invited:

(i) All members of the legislature or all members of either house of the legislature; or

(ii) all members of a political party caucus of the legislature or all members of a political party caucus of either house of the legislature.

(d) Except as provided by subsection (c), whenever an individual lobbyist contributes to a single special event, such lobbyist shall report only the aggregate amount or value of the expenditure contributed by such lobbyist.

(e) Whenever more than one lobbyist is employed by a single employer, the reports required by this section relating to such employer shall be made by only one such lobbyist and that lobbyist shall be the lobbyist who is most directly connected with the particular expenditure or gift, honoraria or payment. No expenditure or gift, honoraria or payment required to be reported by this section shall be reported by more than one lobbyist.

(f) All accounts, records and documents of the lobbyist which relate to every expenditure reported or which should have been reported shall be maintained and preserved by the lobbyist for a period of five years from the date of the filing of such report or statement and may be inspected under conditions determined by the commission.";

And by renumbering the remaining sections accordingly;

Also on page 2, in line 36, after "K.S.A." by inserting "46-269 and K.S.A."; also in line 36, by striking "is" and inserting "are";

In the title, in line 11, after the semicolon by inserting "pertaining to reporting of certain expenditures by lobbyists;"; in line 12, after "K.S.A." by inserting "46-269 and K.S.A."; also in line 12, by striking "section" and inserting "sections"

SB 297 be further amended by motion of Senator Huelskamp, as amended by Senate Committee, on page 2, after line 15, by inserting the following:

"(i) Notwithstanding the provisions of K.S.A. 46-221, and amendments thereto, each of the following persons shall file with the supreme court the judicial financial disclosure report developed by the supreme court:

(1) Judge of the court of appeals;

(2) justice of the supreme court;

(3) member of the commission on judicial qualifications; and

(4) member of any supreme court nominating commission.";

In the title, in line 11, after the semicolon by inserting "requiring certain members of the judicial branch to file disclosure statements;" and **SB 297** be passed as further amended.

HB 2002 be amended by adoption of the committee amendments, be further amended by motion of Senator Schodorf, as amended by Senate Committee, on page 3, by striking all in lines 39 through 43;

On page 4, by striking all in lines 1 through 11; following line 11, by inserting the following:

"(1)" Military pupil" means a person who is a dependent of a full-time active duty member of the military service or a dependent of a member of any of the United States military reserve forces who has been ordered to active duty under section 12301, 12302 or 12304 of Title 10 of the United States Code, or ordered to full-time active duty for a period of more than 30 consecutive days under section 502(f) or 512 of Title 32 of the United States Code for the purposes of mobilizing for war, international peacekeeping missions, national emergency or homeland defense activities.

(2) "School year" means school year 2009-2010, 2010-2011, 2011-2012 or 2012-2013.

(b) Each school year, the state board shall:

(1) Determine the number of pupils enrolled in each district on September 20;

(2) determine the number of military pupils enrolled in each district on February 20, who were not enrolled on the preceding September 20;

(c) (1) If the number obtained under (b)(2) is 25 or more, an amount equal to the number obtained under (b)(2) shall be added to the number determined under (b)(1). The sum is the enrollment of the district.

(2) If the number obtained under (b)(2) is at least 1% of the number determined under (b)(1), an amount equal to the number obtained under (b)(2) shall be added to the number determined under (b)(1). The sum is the enrollment of the district.", and **HB 2002** be passed as further amended.

HB 2060 be amended by adoption of the committee amendments, be further amended by motion of Senator McGinn, as amended by Senate Committee, on page 1, after line 17, by inserting:

"Section 1. K.S.A. 21-4315 is hereby amended to read as follows: 21-4315. (a) Unlawful conduct of dog fighting is: (1) Causing, for amusement or gain, any dog to fight with or injure another dog, (2) knowingly permitting such fighting or injuring on premises under one's ownership, charge or control, or (3) training, owning, keeping, transporting or selling any dog for the purpose or with the intent of having it fight with or injure another dog.

(b) Unlawful possession of dog fighting paraphernalia is possession of any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia together with evidence that the paraphernalia is being used or is intended for use in the unlawful conduct of dog fighting.

(c) Unlawful attendance of dog fighting is entering or remaining on the premises where the unlawful conduct of dog fighting is occurring.

(b) (d) Unlawful conduct of dog fighting is a severity level 10, nonperson felony.

(c) Attending the unlawful conduct of dog fighting is a class B nonperson misdemeanor.

(e) Unlawful possession of dog fighting paraphernalia is a class A nonperson misdemeanor.

(f) Unlawful attendance of dog fighting is a class B nonperson misdemeanor.

 $\frac{d}{d}$ (g) This section and K.S.A. 21-4316 and 21-4317, and amendments thereto, shall be part of and supplemental to the Kansas criminal code.

Sec. 2. K.S.A. 21-4316 is hereby amended to read as follows: 21-4316. (a) When a person is arrested under K.S.A. 21-4315 and amendments thereto, a law enforcement agency may take into custody any dog on the premises where the dog fight is alleged to have occurred and any dog owned or kept on the premises of any person arrested for unlawful conduct of

dog fighting or for, attending the unlawful conduct of dog fighting or unlawful possession of dog fighting paraphernalia under K.S.A. 21-4315, and amendments thereto.

(b) When a law enforcement agency takes custody of a dog under this section, such agency may place the dog in the care of a duly incorporated humane society or licensed veterinarian for boarding, treatment or other care. If it appears to a licensed veterinarian that the dog is diseased or disabled beyond recovery for any useful purpose, such dog may be humanely killed. The dog may be sedated, isolated or restrained if such officer, agent or veterinarian determines it to be in the best interest of the dog, other animals at the animal shelter or personnel of the animal shelter. If the dog is placed in the care of an animal shelter, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the dog for adoption or euthanize the dog at any time after 20 days after the dog is taken into custody, unless the owner or custodian of the dog files a renewable cash or performance bond with the county clerk of the county where the dog is being held, in an amount equal to not less than the cost of care and treatment of the dog for 30 days. Upon receiving such petition, the court shall determine whether the dog may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal. Except as provided in subsection (c), if it appears to the licensed veterinarian by physical examination that the dog has not been trained for aggressive conduct or is a type of dog that is not commonly bred or trained for aggressive conduct, the district or county attorney shall order that the dog be returned to its owner when the dog is not needed as evidence in a case filed under K.S.A. 21-4315 or 21-4310, and amendments thereto. The owner or keeper of a dog placed for adoption or humanely killed under this subsection (b) shall not be entitled to damages unless the owner or keeper proves that such placement or killing was unwarranted.

(c) If a person is convicted of unlawful conduct of dog fighting $\overline{\sigma r}$, attending the unlawful conduct of dog fighting *or unlawful possession of dog fighting paraphernalia* under K.S.A. 21-4315, and amendments thereto, a dog taken into custody pursuant to subsection (a) shall not be returned to such person and the court shall order the owner or keeper to pay to the animal shelter all expenses incurred for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to conviction of the owner or keeper. Disposition of such dog shall be in accordance with K.S.A. 21-4311, and amendments thereto. If no such conviction results, the dog shall be returned to the owner or keeper and the court shall order the county where the dog was taken into custody to pay to the animal shelter all expenses incurred by the shelter for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to its return.";

And by renumbering sections accordingly;

On page 14, in line $\vec{7}$, by striking the period where it appears for the last time and inserting a semicolon; after line 7, by inserting:

"(n) Unlawful conduct of dog fighting and unlawful possession of dog fighting paraphernalia, K.S.A. 21-4315, and amendments thereto; and";

Also on page 14, in line 8, by striking "(n)" and inserting "(o)"; in line 10, after "K.S.A." by inserting "21-4315, 21-4316 and";

In the title, in line 11, after "to" by inserting "dog fighting and"; in line 13, after "K.S.A." by inserting "21-4315, 21-4316 and" and the **HB 2060** be passed as further amended.

S Sub for HB 2096 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Owens, on page 15, in line 41, by striking "2" and inserting "5";

On page 26, in line 28, by striking "2" and inserting "5";

In the title, in line 15, by striking "2" and inserting "5", and **S Sub for HB 2096** be passed as amended.

A motion by Senator Lee to amend **S Sub for HB 2096** failed and the following amendment was rejected: on page 7, after line 19, by inserting the following:

"Sec. 4. K.S.A. 2008 Supp. 8-1001 is hereby amended to read as follows: 8-1001. (a) Any person who operates or attempts to operate a vehicle within this state is deemed to have given consent, subject to the provisions of this act, to submit to one or more tests of the

person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The testing deemed consented to herein shall include all quantitative and qualitative tests for alcohol and drugs. A person who is dead or unconscious shall be deemed not to have withdrawn the person's consent to such test or tests, which shall be administered in the manner provided by this section.

(b) A law enforcement officer shall request a person to submit to a test or tests deemed consented to under subsection (a): (1) If the officer has reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person was driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, or was under the age of 21 years while having alcohol or other drugs in such person's system; and one of the following conditions exists: (A) The person has been arrested or otherwise taken into custody for any offense involving operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both, or for a violation of K.S.A. 8-1567a, and amendments thereto, or involving driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, in violation of a state statute or a city ordinance; or (B) the person has been involved in a vehicle accident or collision resulting in property damage or personal injury other than serious injury; or if the person was operating or attempting to operate a vehicle and such vehicle has been involved in an accident or collision resulting in serious injury or death any person and the operator could be cited for any traffic offense, as defined in K.S.A. 8-2117, and amendments thereto, or (3) if the person was operating or attempting to operate a vehicle and such vehicle has been involved in an accident or collision with one or more other vehicles resulting in the death of any person. The traffic offense violation shall constitute probable cause for purposes of paragraph (2). The test or tests under paragraph (2) shall not be required if a law enforcement officer has reasonable grounds to believe the actions of the operator did not contribute to the accident or collision. The law enforcement officer directing administration of the test or tests may act on personal knowledge or on the basis of the collective information available to law enforcement officers involved in the accident investigation or arrest.

(c) If a law enforcement officer requests a person to submit to a test of blood under this section, the withdrawal of blood at the direction of the officer may be performed only by: (1) A person licensed to practice medicine and surgery, licensed as a physician's assistant, or a person acting under the direction of any such licensed person; (2) a registered nurse or a licensed practical nurse; (3) any qualified medical technician, including, but not limited to, an emergency medical technician-intermediate or mobile intensive care technician, as those terms are defined in K.S.A. 65-6112, and amendments thereto, authorized by medical protocol or (4) a phlebotomist.

(d) A law enforcement officer may direct a medical professional described in this section to draw a sample of blood from a person:

(1) If the person has given consent and meets the requirements of subsection (b);

(2) if medically unable to consent, if the person meets the requirements of paragraph (2) of subsection (b); or

(3) if the person refuses to submit to and complete a test, if the person meets the requirements of paragraph (2) of subsection (b).

(e) When so directed by a law enforcement officer through a written statement, the medical professional shall withdraw the sample as soon as practical and shall deliver the sample to the law enforcement officer or another law enforcement officer as directed by the requesting law enforcement officer as soon as practical, provided the collection of the sample does not jeopardize the person's life, cause serious injury to the person or seriously impede the person's medical assessment, care or treatment. The medical professional authorized herein to withdraw the blood and the medical care facility where the blood is drawn may act on good faith that the requirements have been met for directing the withdrawing of blood once presented with the written statement provided for under this subsection. The medical professional shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

(f) Such sample or samples shall be an independent sample and not be a portion of a sample collected for medical purposes. The person collecting the blood sample shall complete the collection portion of a document provided by law enforcement.

(g) If a person must be restrained to collect the sample pursuant to this section, law enforcement shall be responsible for applying any such restraint utilizing acceptable law enforcement restraint practices. The restraint shall be effective in controlling the person in a manner not to jeopardize the person's safety or that of the medical professional or attending medical or health care staff during the drawing of the sample and without interfering with medical treatment.

(h) A law enforcement officer may request a urine sample upon meeting the requirements of paragraph (1) of subsection (b) and shall request a urine sample upon meeting the requirements of paragraph (2) of subsection (b).

(i) If a law enforcement officer requests a person to submit to a test of urine under this section, the collection of the urine sample shall be supervised by persons of the same sex as the person being tested and shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived by the person being tested. When possible, the supervising person shall be a law enforcement officer. The results of qualitative testing for drug presence shall be admissible in evidence and questions of accuracy or reliability shall go to the weight rather than the admissibility of the evidence. If the person is medically unable to provide a urine sample in such manner due to the injuries or treatment of the injuries, the same authorization and procedure as used for the collection of blood in subsections (d) and (e) shall apply to the collection of a urine sample.

(j) No law enforcement officer who is acting in accordance with this section shall be liable in any civil or criminal proceeding involving the action.

(k) Before a test or tests are administered under this section, the person shall be given oral and written notice that: (1) Kansas law requires the person to submit to and complete one or more tests of breath, blood or urine to determine if the person is under the influence of alcohol or drugs, or both;

(2) the opportunity to consent to or refuse a test is not a constitutional right;

(3) there is no constitutional right to consult with an attorney regarding whether to submit to testing;

(4) if the person refuses to submit to and complete any test of breath, blood or urine hereafter requested by a law enforcement officer, the person's driving privileges will be suspended for one year for the first occurrence, two years for the second occurrence, three years for the third occurrence, 10 years for the fourth occurrence and permanently revoked for a fifth or subsequent occurrence;

(5) if the person submits to and completes the test or tests and the test results show for the first occurrence:

(A) An alcohol concentration of .08 or greater, the person's driving privileges will be suspended for 30 days for the first occurrence; or

(B) an alcohol concentration of .15 or greater, the person's driving privileges will be suspended for one year;

(6) if the person submits to and completes the test or tests and the test results show an alcohol concentration of .08 or greater, the person's driving privileges will be suspended for one year for the second, third or fourth occurrence and permanently revoked for a fifth or subsequent occurrence;

(7) if the person is less than 21 years of age at the time of the test request and submits to and completes the tests and the test results show an alcohol concentration of .08 or greater, the person's driving privileges will be suspended for one year except the person's driving privileges will be permanently revoked for a fifth or subsequent occurrence;

(8) refusal to submit to testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both;

(9) the results of the testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both; and

(10) after the completion of the testing, the person has the right to consult with an attorney and may secure additional testing, which, if desired, should be done as soon as possible and is customarily available from medical care facilities willing to conduct such testing.

(1) If a law enforcement officer has reasonable grounds to believe that the person has been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, the person shall also be provided the oral and written notice pursuant to K.S.A. 8-2,145 and amendments thereto. Any failure to give the notices required by K.S.A. 8-2,145 and amendments thereto shall not invalidate any action taken as a result of the requirements of this section. If a law enforcement officer has reasonable grounds to believe that the person has been driving or attempting to drive a vehicle while having alcohol or other drugs in such person's system and such person was under 21 years of age, the person also shall be given the notices required by K.S.A. 8-1567a, and amendments thereto, Any failure to give the notices required by K.S.A. 8-1567a, and amendments thereto, shall not invalidate any action taken as a result of the requirements of given the notices required by K.S.A. 8-1567a, and amendments thereto.

(m) After giving the foregoing information, a law enforcement officer shall request the person to submit to testing. The selection of the test or tests shall be made by the officer. If the person refuses to submit to and complete a test as requested pursuant to this section, additional testing shall not be given unless the certifying officer has probable cause to believe that the person, while under the influence of alcohol or drugs, or both, has operated a vehicle in such a manner as to have caused the death of any person. If the test results show a blood or breath alcohol concentration of .08 or greater, the person's driving privileges shall be subject to suspension, or suspension and restriction, as provided in K.S.A. 8-1002 and 8-1014, and amendments thereto.

(n) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of the alleged operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both.

(o) If a law enforcement officer had reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .04 or greater, the person shall be disqualified from driving a commercial motor vehicle, pursuant to K.S.A. 8-2,142, and amendments thereto. If a law enforcement officer had reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .08 or greater, or the person refuses a test, the person's driving privileges shall be subject to suspension, or suspension and restriction, pursuant to this section, in addition to being disqualified from driving a commercial motor vehicle pursuant to K.S.A. 8-2,142, and amendments thereto.

(p) An officer shall have probable cause to believe that the person operated a vehicle while under the influence of alcohol or drugs, or both, if the vehicle was operated by such person in such a manner as to have caused the death of or serious injury to a person. In such event, such test or tests may be made pursuant to a search warrant issued under the authority of K.S.A. 22-2502, and amendments thereto, or without a search warrant under the authority of K.S.A. 22-2501, and amendments thereto.

(q) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(r) It shall not be a defense that the person did not understand the written or oral notice required by this section.

(s) No test results shall be suppressed because of technical irregularities in the consent or notice required pursuant to this act.

(t) Nothing in this section shall be construed to limit the admissibility at any trial of alcohol or drug concentration testing results obtained pursuant to a search warrant.

(u) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person.

(v) This act is remedial law and shall be liberally construed to promote public health, safety and welfare.

(w) As used in this section, "serious injury" means a physical injury to a person, as determined by law enforcement, which has the effect of, prior to the request for testing:

(1) Disabling a person from the physical capacity to remove themselves from the scene; (2) renders a person unconscious;(3) the immediate loss of or absence of the normal use of at least one limb;

(4) an injury determined by a physician to require surgery; or

(5) otherwise indicates the person may die or be permanently disabled by the injury."; And by renumbering the remaining sections accordingly;

On page 26, in line 23, after "Supp." by inserting "8-1001,";

In the title, in line 12, after "to" by inserting "tests for presence of alcohol or drugs;"; in line 14, after "8-267," by inserting "8-1001,"

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, March 19, 2009.

Journal of the Senate

FORTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, March 19, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

One of Your faithful ministers Named John Witherspoon Entered our fight for freedom Not a day too soon.

President of Princeton, He signed our Declaration And in the Continental Congress Helped to save our nation.

To be a statesman and a patriot, He encouraged three elements. They were extremely effective, And have remained so ever since

"True and undefiled religion" Has to be maintained; Profanity and immorality Must not become ingrained.

If anyone opposes That for which God stands, He must be considered Not a statesmanlike man.

We thank You, Lord, for molding Men like Witherspoon; You brought him to America. Certainly not too soon.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

POINT OF PERSONAL PRIVILEGE

Senator Barnett rose on a point of personal privilege to introduce Rod Bremby, Bill Bruning, Helen Connors, Jeff Ellis, Mellissa Hungerford, Ron Liebman, Julie Roth, Gary Caruthers, Christina Stephan, Victoria Wangia, Marcia Nielsen and Barbara Langner, a delegation of health professionals. Senator Haley rose on a point of personal privilege to introduce his daughter, Mariah Danielle Haley (13), and son, Daniel Jordan Haley (12), who are serving as Senate Pages while on Spring Break from school.

Senator Haley noted that he began his own Legislative service to Kansas as a Page serving under his father, Senator George W. Haley, (Wyandotte) during the 1960's and that now his own children, Mariah and Daniel, become a third generation of Haleys to serve in the same capacity in the Kansas Senate.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 329, An act repealing K.S.A. 2008 Supp. 58-4501, 58-4502, 58-4503, 58-4504, 58-4505, 58-4506, 58-4507, 58-4508, 58-4509, 58-4510, 58-4511, 58-4512, 58-4513 and 58-4514; concerning the Kansas home inspectors professional competence and financial responsibility act, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2325**. Education: **Sub HB 2008**. Ways and Means: **SB 326**, **SB 327**, **SB 328**; **HB 2072**.

MESSAGE FROM THE GOVERNOR

SB 82 approved on March 18, 2009.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 11**, as amended; **SB 64**, as amended; **SB 70**, as amended; **SB 80**, as amended; **SB 132**, as amended; **SB 145**, as amended by **House Substitute for SB 145**; **SB 171**, as amended.

The House nonconcurs in Senate amendments to **HB 2052**, requests a conference and appoints Representatives Shultz, Peck and Dillmore as conferees on the part of the House.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **SB 161** and requested a conference committee be appointed.

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

FINAL ACTION ON CONSENT CALENDAR

SB 306; HB 2270 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

SB 306, An act concerning the Kansas fireworks act; creating the fireworks and explosives fund; amending K.S.A. 2008 Supp. 31-505 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2270, An act concerning income taxation; relating to apportionment of business income; amending K.S.A. 2008 Supp. 79-3279 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala,

Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 22, An act concerning school districts; relating to the issuance of no-fund warrants, was considered on final action.

On roll call, the vote was: Yeas 23, Nays 17, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Bruce, Brungardt, Colyer, Donovan, Emler, Kelsey, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Brownlee, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kultala, Lee, Lynn, Ostmeyer, Pilcher-Cook, Pyle, Steineger, Wagle.

The bill passed, as amended.

SB 93, An act concerning the joint committee on special claims against the state; relating to membership thereof; amending K.S.A. 46-912 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 247, An act concerning alcoholic beverages; relating to licensure of a club or drinking establishment; amending K.S.A.41-2651 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 293, An act concerning traffic regulation; relating to all-terrain vehicles; definitions; amending K.S.A. 2008 Supp. 8-126 and 8-1402a and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 297, An act concerning governmental ethics; eliminating the filing requirement for certain faculty of state education institutions; pertaining to reporting of certain expenditures by lobbyists; requiring certain members of the judicial branch to file disclosure statements; amending K.S.A. 46-269 and K.S.A. 2008 Supp. 46-247 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Present and Passing: Francisco.

The bill passed, as amended.

SB 313, An act concerning school districts; relating to the contingency reserve fund; amending K.S.A. 2008 Supp. 72-6426 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 32, Nays 7, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Hensley, Holland, Kelly, Kultala, Lee, Ostmeyer, Steineger.

Present and Passing: Francisco.

The bill passed.

HB 2002, An act concerning school districts; relating to school finance; amending K.S.A. 2008 Supp. 72-6448 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 4, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Brownlee, Colyer, Lynn, Pilcher-Cook.

Present and Passing: Wysong.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "no" on **HB 2002.** It seems to have become legislative sport to treat Johnson County schools differently from others. On special education reimbursement, all six Johnson County school districts receive less than 70% of excess costs even though by law they should receive 92%. Some districts receive about 200%. In this bill we are not allowed the opportunity to have a second count date for our fast growing school districts. This again carves out our schools to be treated differently, perhaps unfairly.—KARIN BROWNLEE

Senators Lynn and Colyer requested the record to show they concur with the "Explanation of Vote" offered by Senator Brownlee on **HB 2002.**

HB 2010, An act concerning state board of healing arts; relating to storage, maintenance and transfer of medical records and delegation of practice; creating medical records maintenance trust fund; amending K.S.A. 2008 Supp. 65-28,127 and 65-28,128 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

HB 2060, An act concerning crimes, punishment and criminal procedure; relating to dog fighting and cockfighting; asset forfeiture; battery against a law enforcement officer; drug offenses; possession of a firearm; sentencing; amending K.S.A. 21-4315, 21-4316 and 21-

4319 and K.S.A. 2008 Supp. 21-4704, 21-4705 and 60-4104 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Faust-Goudeau, Haley.

Present and Passing: Francisco.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "NO" on **HB 2060.** As I indicated during yesterday's General Orders debate, I continue to find it absurd that this Senate is writing a "blank check," and/ or imposing an unfunded mandate on our County jails, especially during these times of economic uncertainty. We don't even have a firm fiscal estimate on bedspace.

This bill does nothing to increase public safety. It just creates a bunch of so called "feelgood = get-tough-on-crime" provisions for somebody's future campaign literature fodder.

As a true fiscal conservative, I'm not going to fall for the costs of this charade.—DAVID HALEY.

S Sub for HB 2096, An act concerning driving; creating the Kansas DUI commission; creating the correctional services special revenue fund; relating to driver improvement clinics; providing for disposition of certain moneys; relating to penalties for driving under the influence of alcohol or drugs; information sent to the Kansas bureau of investigation central repository; amending K.S.A. 12-4517 and K.S.A. 2008 Supp. 8-255, 8-267, 8-1567, 8-1567, as amended by section 5 of this act, and 12-4106 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The substitute bill passed, as amended.

HB 2131, An act relating to motor vehicles; concerning license plates for disabled veterans; relating to personalized license plates; amending K.S.A. 8-160 and K.S.A. 2008 Supp. 8-132 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

HB 2134, An act relating to motor vehicles; concerning distinctive license plates; amending K.S.A. 2008 Supp. 8-1,141 and repealing the existing section, was considered on finalaction.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Emler, Kelly, Owens.

The bill passed, as amended.

Sub HB 2143, An act relating to driver's licenses; providing for certain restrictions; amending K.S.A. 8-235d, 8-239, 8-291, 8-296 and 8-297 and K.S.A. 2008 Supp. 8-234a and 8-237 and repealing the existingsections, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Holland, Huelskamp, Pilcher-Cook, Pyle.

The substitute bill passed.

HB 2321, An act concerning sales taxation; relating to Kansas retailers' sales tax act; political subdivisions thereunder; horsethief reservoir benefit district; amending K.S.A. 2008 Supp. 79-3602 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

REPORT ON ENGROSSED BILLS

SB 22, SB 93, SB 293, SB 297 reported correctly engrossed March 19, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **Sub HB 2008**, as amended by House Committee of the Whole, be passed.

Committee on Federal and State Affairs recommends SB 169 be passed.

Also, **HB 2130**, be amended by adoption of the amendments recommended by the Senate Committee on Transportation as reported in the Journal of the Senate on March 16, 2009, and the bill, as printed with amendments by Senate Committee, be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2214** be amended on page 1, following the enacting clause by inserting the following:

"New Section 1. This act shall be known and may be cited as the public adjusters licensing act, and it shall govern the qualifications and procedures for the licensing of public adjusters. It specifies the duties of and restrictions on public adjusters, which include limiting their licensure to assisting insureds in first party claims.

New Sec. 2. As used in this act: (a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

(b) "Catastrophic disaster" means, according to the federal response plan, an event:

(1) Declared by the president of the United States or governor of Kansas;

(2) results in large numbers of deaths and injuries;

(3) causes extensive damage or destruction of facilities that provide and sustain human needs;

(4) produces an overwhelming demand on state and local response resources and mechanisms;

(5) causes a severe long-term effect on general economic activity; and

(6) severely affects state, local and private sector capabilities to begin and sustain response activities.

(c) "Commissioner" means the state commissioner of insurance.

(d) "FBI" means the federal bureau of investigation.

(e) "Fingerprint" means an impression of the lines on a finger taken for purpose of identification. The impression may be electronic or in ink converted to electronic format.

(f) "Home state" means the District of Columbia and any state or territory of the United States in which a public adjuster's principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a law governing public adjusters substantially similar to this act, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the home state.

(g) "KBI" means the Kansas bureau of investigation.

 (\dot{h}) "Licensed public adjuster" means a public adjuster licensed in accordance with this act.

(i) "NAIC" means the national association of insurance commissioners and its affiliates and subsidiaries.

(j) "Person" means an individual or a business entity.

(k) "Public adjuster" means any individual who:

(1) For compensation or any other thing of value, and solely in relation to first party claims arising under insurance claims or contracts that insure the real or personal property of the insured, aids or acts on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by and limited to commercial lines insurance contracts;

(2) advertises for employment as a public adjuster of insurance claims or directly or indirectly solicits business or represents to the public that such person is a public adjuster of first party insurance claims for losses or damages to real or personal property covered by and limited to commercial lines insurance contracts; or

(3) for compensation or any other thing of value, investigates or adjusts losses or advises an insured about first party claims for losses or damages to real or personal property of the insured covered by and limited to commercial lines insurance contracts, for another person engaged in the business of adjusting losses or damages covered by and limited to commercial lines insurance contracts.

(l) "Uniform individual application" means the current version of the NAIC uniform individual application for resident and nonresident individuals.

(m) "Uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.

New Sec. 3. (a) A person shall not act as or represent that such person is a public adjuster in this state unless the person is an individual licensed as a public adjuster in accordance with this act.

(b) A licensed public adjuster shall not misrepresent to a claimant that the individual is an adjuster representing an insurer in any capacity, including acting as an employee of the insurer or acting as an independent adjuster, unless so appointed by an insurer in writing to act on the insurer's behalf for that specific claim or purpose. A licensed public adjuster is prohibited from charging that specific claimant a fee when appointed by the insurer and the appointment is accepted by the licensed public adjuster.

(c) Notwithstanding the provisions of this section, a license as a public adjuster shall not be required of the following:

(1) An attorney-at-law admitted to practice in this state, when acting in such person's professional capacity as an attorney;

(2) a person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;

(3) a person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, including photographers, estimators, private investigators, engineers and handwriting experts;

(4) a licensed health care provider, or employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient; or

(5) a person who settles subrogation claims between insurers.

New Sec. 4. (a) An individual applying for a public adjuster license shall make application to the commissioner on the appropriate uniform application or other application prescribed by the commissioner.

(b) The applicant shall declare under penalty of perjury and under penalty of refusal, suspension or revocation of the license, that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief.

(c) In order to make a determination of license eligibility, the commissioner shall require a criminal history record check on each applicant who is not exempt from pre-licensing examination pursuant to section 7, and amendments thereto.

New Sec. 5. (a) Before issuing a public adjuster license to an applicant under this act, the commissioner shall find that the applicant:

(1) Is eligible to designate this state as the applicant's home state or is a nonresident who is not eligible for a license under section 8, and amendments thereto;

(2) has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in section 10, and amendments thereto;

(3) is trustworthy, reliable and of good reputation, evidence of which may be determined by the commissioner;

(4) is financially responsible to exercise the rights and privileges under the license and has provided proof of financial responsibility as required in section 11, and amendments thereto;

(5) has paid an application fee of \$100; and

(6) maintains an office in the home state with public access during regular business hours or by reasonable appointment.

(b) In addition to satisfying the requirements of subsection (a), an applicant shall

(1) Be at least 18 years of age; and

(2) have successfully passed the public adjuster examination.

(c) The commissioner may require any documents reasonably necessary to verify the information contained in the application.

New Sec. 6. (a) An applicant for a public adjuster license under this act shall pass a written examination, unless exempt from this requirement pursuant to section 7, and amendments thereto. The examination shall test the knowledge of the individual concerning the duties and responsibilities of a public adjuster and the insurance laws and regulations of this state. Examinations required by this section shall be developed and conducted under rules and regulations prescribed by the commissioner.

(b) The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations.

(c) An applicant who fails to appear for the examination as scheduled or fails to pass the examination may retake the examination following a waiting period of not less than seven days following the date of the first examination. If the applicant again fails to satisfactorily complete the examination, the applicant may retake the examination following a waiting period of not less than seven days following the date of the second examination. If the applicant again fails to satisfactorily complete the examination following a waiting period of not less than seven days following the date of the second examination. If the applicant again fails to satisfactorily complete the examination following a waiting period of not less than seven days following the date of the second examination. If the applicant again fails to satisfactorily complete the examination, the applicant may retake the examination following a waiting period of not less than six months following the date of the third examination, except that following a waiting period of not less than two years following the date of the third examination, the applicant will be treated as a new applicant and new examination and waiting periods shall apply.

New Sec. 7. (a) An applicant who applies for a public adjuster license in this state, who is currently licensed as a public adjuster in another state based on the individual's passage of a public adjuster examination, shall not be required to complete any pre-licensing examination.

(b) An individual licensed as a public adjuster in another state, based on the individual's passage of a public adjuster examination, who moves to this state shall make application within 90 days of establishing legal residence in this state to become a resident licensee pursuant to section 5, and amendments thereto. No pre-licensing examination shall be required of that individual to obtain a public adjuster license.

(c) An individual who applies for a public adjuster license in this state and who was previously licensed as a public adjuster in this state, shall not be required to complete any pre-licensing examination, if the individual's application for licensure as a public adjuster is received within 12 months of the cancellation of the applicant's previous license in this state and if, at the time of cancellation, the applicant was in good standing in this state.

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New Sec. 8. (a) Unless denied licensure pursuant to section 10, and amendments thereto, a nonresident individual shall receive a nonresident public adjuster license, if:

(1) The individual is currently licensed and in good standing as a resident public adjuster in that individual's home state;

(2) the individual has submitted the proper request for licensure, has paid the appropriate fee required by section 5, and amendments thereto, and, if required by the commissioner to do so, has provided proof of financial responsibility in accordance with section 11, and amendments thereto;

(3) the individual has submitted to the commissioner the appropriate completed application for licensure; and

(4) the individual's home state awards nonresident public adjuster licenses to residents of this state on the same basis.

(b) The commissioner may verify the public adjuster's licensing status through the producer database maintained by the NAIC.

(c) As a condition to continuation of a public adjuster license issued under this section, the licensee shall maintain a resident public adjuster license in the licensee's home state. The nonresident public adjuster license issued under this section shall terminate and be surrendered immediately to the commissioner, if the home state public adjuster license terminates for any reason, unless the public adjuster has a new home state and has been issued a license as a resident public adjuster in the new home state. Notification to the state or states where the nonresident license is issued must be made as soon as practicable, but no later than 30 days of a change in the new home state resident license. The licensee shall include in such notification the licensee's new and old addresses. A new home state resident license is required for a nonresident license to remain valid, and the new home state must have reciprocity with this state, in order for the nonresident license to remain valid.

New Sec. 9. (a) An individual who has met the requirements for licensure under this act shall be issued a public adjuster license. A public adjuster license shall remain in effect, unless revoked, terminated or suspended, as long as the request for renewal is timely submitted and a license renewal fee of \$100 is paid and any other requirements for license renewal are met by the due date. The licensee shall inform the commissioner by any means acceptable to the commissioner of a change of address, change of legal name or change of information submitted on the application within 30 days of the change.

(b) A public adjuster shall be subject to the provisions of subsection (9) of K.S.A. 40-2404, and amendments thereto.

(c) A public adjuster who allows such person's license to lapse may, within 12 months from the due date of the renewal, be issued a new public adjuster license upon the commissioner's receipt of proof that the licensee has satisfactorily completed the renewal process and the licensee's payment of a reinstatement fee of \$100. The new public adjuster license shall be effective the date the commissioner receives such proof and the reinstatement fee.

(d) A licensed public adjuster that is unable to comply with license renewal procedures due to military service, a long-term medical disability or some other extenuating circumstance, may request an extension of time to comply with those procedures.

(e) The public adjuster license shall contain the licensee's name, city and state of business address, personal identification number, the date of issuance, the expiration date and any other information the commissioner deems necessary.

(f) In order to assist in the performance of the commissioner's duties, the commissioner may contract with non-governmental entities, including the NAIC, to perform any ministerial functions, including the collection of fees and data related to licensing that the commissioner may deem appropriate.

New Sec. 10. (a) The commissioner may suspend, revoke or refuse to issue or renew a public adjuster's license for any of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(2) violating:

(A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder;

(B) any subpoena or order of the commissioner;

(C) any insurance law or regulation of another state; or

(D) any subpoena or order issued by the regulatory official for insurance in another state;

(3) obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) misappropriating, converting or improperly withholding any monies or properties received in the course of doing insurance business;

(5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) having been convicted of a misdemeanor or felony;

(7) having admitted or committed any insurance unfair trade practice or insurance fraud;

(8) using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(9) having an insurance license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(10) forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license;

(12) knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the commissioner;

(13) failing to comply with an administrative or court order imposing a child support obligation upon the applicant or license holder; or

(14) failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

(b) In addition, the commissioner may deny, suspend, revoke or refuse renewal of a public adjuster's license if the commissioner finds that the interests of the public are not properly served under such license. Any action taken under this section which affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the Kansas administrative procedure act.

(c) In lieu of any action under subsection (a), the commissioner may:

(1) Censure the individual; or

(2) issue an order imposing an administrative penalty up to a maximum of \$500 for each violation, but not to exceed \$2,500 for the same violation occurring within any six consecutive calendar months from the date of the original violation, unless such person knew or should have known that the violative act could give rise to disciplinary action under subsection (a). If such person knew or reasonably should have known the violative act could give rise to any disciplinary proceeding authorized by subsection (a), the commissioner may impose a penalty up to a maximum of \$1,000 for each violation, but not to exceed \$5,000 for the same violation occurring within any six consecutive calendar months from the date of the original violation.

(d) The commissioner shall remit all such fines collected under subsection (c) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(e) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this act against any individual who is under investigation for or charged with a violation of this act, even if the individual's license or registration has been surrendered or has lapsed by operation of law.

New Sec. 11. (a) Prior to issuance of a public adjuster license and for the duration of the license, the commissioner may require the applicant to furnish evidence of financial responsibility, in a format prescribed by the commissioner, by means of:

(1) A surety bond executed and issued by an insurer authorized to issue surety bonds in this state, which bond:

(A) Shall be in such reasonable amount as the commissioner may require;

(B) shall be in favor of the commissioner and shall specifically authorize recovery by the commissioner on behalf of any person in this state who sustains damages as the result of

erroneous acts, failure to act, conviction of fraud or conviction of unfair practices in the applicant's capacity as a public adjuster; and

(C) shall not be terminated unless at least 30-days prior written notice has been filed by the insurer with the commissioner and given to the licensee.

(2) An irrevocable letter of credit issued by a qualified financial institution, which letter of credit:

(A) Shall be in such reasonable amount as the commissioner may require;

(B) shall be to an account of the commissioner and subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, fraudulent acts or unfair practices in the applicant's capacity as a public adjuster; and

(C) shall not be terminated unless at least 30-days prior written notice has been filed by the issuer with the commissioner and given to the licensee.

(b) Where the commissioner has required an applicant to furnish evidence of financial responsibility pursuant to subsection (a):

(1) The issuer of the evidence of financial responsibility shall notify the commissioner upon termination of the bond or letter of credit, unless otherwise directed by the commissioner;

(2) the commissioner may ask for the evidence of the public adjuster's financial responsibility at any time the commissioner deems relevant; and

(3) the authority to act as a public adjuster shall terminate automatically if the evidence of financial responsibility terminates or becomes impaired.

New Sec. 12. (a) As used in this section:

(1) "Biennial due date" means the date of birth of any public adjuster who is required to complete continuing education credits and report the completion of the continuing education credits to the commissioner, except that such due date shall not be earlier than two years from the date of the public adjuster's initial licensure under this act.

(2) "Biennium" means, for any public adjuster who was born in an odd-numbered year, the two-year period starting with the public adjuster's biennial due date in 2011 and each two-year period thereafter. For any public adjuster who was born in an even-numbered year, such term means the two-year period starting with the public adjuster's biennial due date in 2012 and each two-year period thereafter.

(b) An individual, who holds a public adjuster license and who is not exempt under subsection (d), shall satisfactorily complete a minimum of 12 hours of continuing education courses, which shall include 11 hours of property/casualty or general continuing education courses and one hour of ethics, reported on a biennial basis in conjunction with the license renewal cycle. Only continuing education courses approved by the commissioner shall be used to satisfy the requirements of this subsection.

(c) Unless suspended, revoked or refused renewal pursuant to section 10, and amendments thereto, a public adjuster's license shall remain in effect as long as the education requirements for a resident public adjuster are met by such public adjuster's biennial due date.

(d) The continuing education requirements of this section shall not apply to licensees holding nonresident public adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this state on the same basis.

New Sec. 13. (a) No public adjuster shall charge, agree to or accept as compensation or reimbursement any payment, commission, fee or other thing of value equal to more than 10% of any insurance settlement or proceeds.

(b) A public adjuster shall not pay a commission, service fee or other valuable consideration to a person for investigating or settling first party claims in this state, if that person is a business entity or is an individual required to be licensed under this act and is not so licensed.

(c) A person shall not accept a commission, service fee or other valuable consideration for investigating or settling first party claims in this state, if that person is a business entity or is an individual required to be licensed under this act and is not so licensed. (d) No public adjuster shall require, demand or accept any fee, retainer, compensation, deposit or other thing of value, prior to settlement of a claim.

New Sec. 14. (a) Public adjusters shall ensure that all contracts for their services are in writing and contain the following:

(1) Legible full name of the public adjuster signing the contract;

(2) permanent home state business address and phone number of the public adjuster;

(3) the public adjuster's license number;

(4) title of "public adjuster contract";

(5) the insured's full name, street address, insurance company name and policy number, if known or upon notification;

(6) a description of the loss and its location, if applicable;

(7) description of services to be provided to the insured;

(8) signatures of the public adjuster and the insured;

(9) the date the contract was signed by the public adjuster and the date the contract was signed by the insured;

(10) attestation language stating that the public adjuster is fully bonded pursuant to this act; and

(11) full salary, fee, commission, compensation or other considerations the public adjuster is to receive for services to be rendered by the public adjuster for or on behalf of the insured.

(b) The public adjuster contract may specify that the public adjuster shall be named as a co-payee on an insurer's payment of a claim. If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified. Compensation provisions in a public adjuster contract shall not be redacted in any copy of the contract provided to the commissioner.

(c) If the insurer, not later than 72 hours after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:

(1) Not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;

 $\left(2\right)$ inform the insured that the loss recovery amount might not be increased by the insurer; and

(3) be entitled only to reasonable compensation from the insured for services provided by the public adjuster on behalf of the insured, based on the time spent on a claim and expenses incurred by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.

(d) A public adjuster shall provide the insured a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party who is involved in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, including, but not limited to, any ownership of, other than as a minority stockholder, or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop or any other firm that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged. As used in this subsection, the word "firm" shall include any individual or business entity.

(e) A public adjuster contract may not contain any contract term that:

(1) Allows the public adjuster's percentage fee to be collected when money is due from an insurance company, but not paid, or that allows a public adjuster to collect the entire fee from the first check issued by an insurance company, rather than as percentage of each check issued by an insurance company;

(2) requires the insured to authorize an insurance company to issue a check only in the name of the public adjuster;

(3) imposes collection costs or late fees; or

(4) precludes a public adjuster from pursuing civil remedies.

(f) Prior to the signing of the contract the public adjuster shall provide the insured with a separate disclosure document regarding the claim process that states:

(1) Property insurance policies obligate the insured to present a claim to the insured's insurance company for consideration;

(2) there are three types of adjusters that could be involved in that process, and they are as follows:

(A) A company adjuster who is an employee of an insurance company, represents the interest of the insurance company, is paid by the insurance company and will not charge the insured a fee;

(B) an independent adjuster who is hired on a contract basis by an insurance company to represent the insurance company's interest in the settlement of the claim, who is paid by the insured's insurance company and will not charge the insured a fee; or

(C) a public adjuster who does not work for any insurance company but works for an insured to assist in the preparation, presentation and settlement of a claim. An insured engages a public adjuster by signing a contract agreeing to pay the public adjuster a fee or commission based on a percentage of the settlement, or other method of compensation;

(3) the insured is not required to hire a public adjuster to help the insured meet the insured's obligations under the policy, but has the right to do so;

(4) the insured has the right to initiate direct communications with the insured's attorney, the insurer's adjuster and the insurer's attorney, or any other person regarding the settlement of the insured's claim;

(5) the public adjuster is not a representative or employee of the insurer;

(6) the salary, fee, commission or other consideration is the obligation of the insured, not the insurer.

(g) The contracts shall be executed in duplicate to provide an original contract to the public adjuster and an original contract to the insured. The public adjuster's original contract shall be available at all times for inspection without notice by the commissioner.

(h) The public adjuster shall provide the insurer a notification letter, which has been signed by the insured, authorizing the public adjuster to represent the insured's interest.

(i) The insured has the right to rescind the public adjuster contract within three business days after the date the contract was signed. The rescission shall be in writing and mailed or delivered to the public adjuster at the address in the contract within the three business day period.

(j) If the insured exercises the right to rescind the contract, anything of value given by the insured under the contract will be returned to the insured within 15 business days following the receipt by the public adjuster of the rescission notice.

New Sec. 15. (a) A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this section shall include the following:

(1) Name of the insured;

(2) date, location and amount of the loss;

(3) copy of the contract between the public adjuster and insured;

(4) name of the insurer and the amount, expiration date and number of each policy carried by the insured with respect to the loss;

(5) itemized statement of the insured's recoveries;

(6) itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;

(7) a register of all moneys received, deposited, disbursed or withdrawn in connection with a transaction with an insured, including fees, transfers and disbursements from a trust account and all transactions concerning all interest-bearing accounts;

(8) name of public adjuster who executed the contract;

(9) name of the attorney representing the insured, if applicable, and the name of the claims representatives of the insurance company; and

(10) evidence of financial responsibility in the format prescribed by the commissioner.

(b) Records shall be maintained for at least five years after the termination of the transaction with an insured and shall be open to examination by the commissioner at all times.

(c) Records submitted to the commissioner in accordance with this section that contain information identified in writing as proprietary by the public adjuster shall be treated as confidential by the commissioner and shall not be open for inspection under the Kansas open records act.

(d) The provisions of subsection (c) shall expire on July 1, 2014, unless the legislature acts to reenact such provisions. The provisions of subsection (c) shall be reviewed by the legislature prior to July 1, 2014.

New Sec. 16. (a) A public adjuster is obligated, under the public adjuster's license, to serve with objectivity and complete loyalty, the interest of the insured only and to render to the insured such information, counsel and service, as within the knowledge, understanding and opinion in good faith of the public adjuster, as will best serve the insured's insurance claim needs and interest.

(b) A public adjuster shall not solicit, or attempt to solicit, an insured during the progress of a loss-producing occurrence, as defined in the insured's insurance contract.

(c) A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this act.

(d) A public adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, unless full written disclosure has been made to the insured as set forth in section 14, and amendments thereto.

(e) A public adjuster shall not acquire any interest in salvage of property subject to the contract with the insured, unless the public adjuster obtains written permission from the insured after settlement of the claim with the insurer as set forth in section 14, and amendments thereto.

(f) The public adjuster shall abstain from referring or directing the insured to get needed repairs or services in connection with a loss from any person, unless disclosed to the insured:

(1) With whom the public adjuster has a financial interest; or

 $\left(2\right)$ from whom the public adjuster may receive direct or indirect compensation for the referral.

(g) The public adjuster shall disclose to an insured if the public adjuster has any interest or will be compensated by any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop or any other firm that performs any work in conjunction with damages caused by the insured loss. As used in this subsection "firm" shall include any business entity or individual.

(h) Any compensation or anything of value in connection with an insured's specific loss that will be received by a public adjuster shall be disclosed by the public adjuster to the insured in writing, including the source and amount of any such compensation.

(i) Public adjusters shall adhere to the following general ethical requirements:

(1) A public adjuster shall not undertake the adjustment of any claim if the public adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the public adjuster's current expertise;

(2) a public adjuster shall not knowingly make any oral or written material misrepresentations or statements which are false or maliciously critical and intended to injure any person engaged in the business of insurance to any insured client or potential insured client;

(3) no licensed public adjuster may represent or act as a company adjuster or independent adjuster on the same claim;

(4) the public adjuster contract shall not be construed to prevent an insured from pursuing any civil remedy after the three-business day revocation or cancellation period;

(5) a public adjuster shall not enter into a contract or accept a power of attorney that vests in the public adjuster the effective authority to choose the persons who shall perform repair work; and

(6) a public adjuster shall ensure that all contracts for the public adjuster's services are in writing and set forth all terms and conditions of the engagement.

(j) A public adjuster may not agree to any loss settlement without the insured's knowledge and consent.

New Sec. 17. (a) The public adjuster shall report to the commissioner any administrative action taken against the public adjuster in another jurisdiction or by another governmental agency in this state within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

(b) Within 30 days of the initial pretrial hearing date, the public adjuster shall report to the commissioner any criminal prosecution of the public adjuster taken in any jurisdiction.

The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

New Sec. 18. The commissioner shall promulgate such reasonable rules and regulations as are necessary to carry out the provisions of this act. The commissioner shall adopt such rules and regulations by July 1, 2010.

New Sec. 19. If any provisions of this act, or the application of a provision to any person or circumstances, shall be held invalid, the remainder of the act, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.";

On page 2, in line 17, by striking "1" and inserting "20"; following line 41, by inserting the following:

"Sec. 22. K.S.A. 2008 Supp. 40-2,105a is hereby amended to read as follows: 40-2,105a. (a) (1) Any group health insurance policy, *certificate of coverage*, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for mental health benefits and which is delivered, issued for delivery, amended or renewed on or after January 1, 2002, shall include coverage for diagnosis and treatment of mental illnesses. Except as provided in paragraph (2), such coverage shall be subject to the same deductibles, *copayments*, coinsurance, *out-of-pocket expenses* and other limitations as apply to other covered services.

(2) The coverage required by paragraph (1) shall include annual coverage for *not less than* both 45 days of in-patient care for mental illness and for 45 visits for out-patient care for mental illness.

(b) Notwithstanding the provisions of K.S.A. 40-2249a, and amendments thereto, the state insurance department shall deliver to the president of the senate and to the speaker of the house of representatives on or before January 1, 2003, a report indicating the impact of providing mental illness benefits required by this act. Such report shall include information regarding access to and usage of such services and the cost of such services.

(c) For the purposes of this section, "mental illness" means the following: Schizophrenia, schizoaffective disorder, schizophreniform disorder, brief reactive psychosis, paranoid or delusional disorder, atypical psychosis, major affective disorders (bipolar and major depression), cyclothymic and dysthymic disorders, obsessive compulsive disorder, panic disorder, pervasive developmental disorder, including autism, attention deficit disorder and attention deficit hyperactive disorder as such terms are defined in the diagnostic and statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of the American psychiatric association but shall not include conditions not attributable to a mental disorder that are a focus of attention or treatment.

(d) The provisions of this section shall be applicable to health maintenance organizations organized under article 32 of chapter 40 of the Kansas Statutes Annotated.

(e) The provisions of this section shall not apply to any medicare supplement policy of insurance, as defined by the commissioner of insurance by rule and regulation.

(f) The provisions of this section shall be applicable to the Kansas state employees health care benefits program and municipal funded pools.

(g) The provisions of this section shall not apply to any policy or certificate which provides coverage for any specified disease, specified accident or accident only coverage, credit, dental, disability income, hospital indemnity, long-term care insurance as defined by K.S.A. 40-2227, and amendments thereto, vision care or any other limited supplemental benefit nor to any medicare supplement policy of insurance as defined by the commissioner of insurance by rule and regulation, any coverage issued as a supplement to liability insurance, workers compensation or similar insurance, automobile medical-payment insurance or any insurance under which benefits are payable with or without regard to fault, whether written on a group, blanket or individual basis.

(h) From and after January 1, 2002, the provisions of K.S.A. 40-2,105, and amendments thereto, shall not apply to mental illnesses as defined in this act.

(i) There shall be no coverage under this section for evaluations and diagnostic tests ordered or requested in connection with criminal actions, divorce, child custody or child visitation proceedings.

Sec. 23. On and after November 1, 2009, K.S.A. 2008 Supp. 40-2258 is hereby amended to read as follows: 40-2258. (a) An accident and sickness insurer which offers coverage through a group policy *or certificate of coverage* providing hospital, medical or surgical expense benefits pursuant to K.S.A. 40-2209, and amendments thereto, which includes mental health *or alcoholism, drug abuse or other substance use disorder* benefits shall be subject to the following requirements:

(1) If the policy does not include an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits, the policy may not impose any aggregate lifetime limit on mental health *or alcoholism*, *drug abuse or other substance use disorder* benefits;

(2) if the policy includes an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits the plan shall either: (A) Apply the applicable lifetime limit both to the hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health or alcoholism, drug abuse or other substance use disorder benefits and not distinguished in the application of such limit between such hospital, medical and surgical expense benefits; or (B) not include any aggregate lifetime limit on mental health or alcoholism, drug abuse or other substance use disorder benefits; or (B) not include any aggregate lifetime limit on mental health or alcoholism, drug abuse or other substance use disorder benefits; in hospital, medical and surgical expense benefits;

(3) if the policy does not include an annual limit on substantially all hospital, medical and surgical expense benefits, the plan or coverage may not impose any annual limit on mental health *or alcoholism, drug abuse or other substance use disorder* benefits; and

(4) if the policy includes an annual limit on substantially all hospital, medical and surgical expense benefits the policy shall either: (A) Apply the applicable annual limit both to hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health or alcoholism, drug abuse or other substance use disorder benefits and not distinguish in the application of such limit between such hospital, medical and surgical expense benefits and mental health or alcoholism, drug abuse or other substance use disorder benefits and surgical expense benefits and mental health or alcoholism, drug abuse or other substance use disorder benefits; or (B) not include any annual limit on mental health or alcoholism, drug abuse or other substance use disorder benefits; that is less than the applicable annual limit.

(b) If the group policy providing hospital, medical or surgical expense benefits is not otherwise covered by subsection (a) and either does not apply a lifetime or annual benefit or applies different lifetime or annual benefits to different categories of hospital, medical and surgical expense benefits, the commissioner may adopt rules and regulations under which subsections (a)(2) and (a)(4) are applied to such policies with respect to mental health or alcoholism, drug abuse or other substance use disorder benefits by substituting for the applicable lifetime or annual limits an average limit that is computed taking into account the weighted average of the lifetime or annual limits applicable to such categories.

(c) Nothing in this section shall be construed as either:

(1) Requiring an accident and sickness policy to offer mental health *or alcoholism, drug abuse or other substance use disorder* benefits except as otherwise required by K.S.A. 40-2,105 and amendments thereto; or

(2) affecting any terms and conditions of a policy which does include mental health *or alcoholism, drug abuse or other substance use disorder* benefits including provisions regarding cost sharing, limits on the number of visits or days of coverage, requirements relating to medical necessity, requirements relating to the amount, duration or scope of mental health *or alcoholism, drug abuse or other substance use disorder* benefits under the plan or coverage, except as specifically provided in subsection (a).

(d) This section shall not apply to any group accident and health insurance policy which is sold to a small employer as defined in K.S.A. 40-2209, and amendments thereto.

(e) This section shall not apply with respect to a group policy providing hospital, medical or surgical expense benefits if the application of this section will result in an increase in the cost under the plan of at least $\frac{1\%}{1\%} 2\%$ in the case of the first plan year in which this section is applied and 1% in the case of each subsequent plan year.

(f) In the case of a group policy providing hospital, medical or surgical expense benefits that offers an eligible employee, member or dependent two or more benefit package options under the policy, subsections (a) and (b) shall be applied separately with respect to each such option.

(g) As used in this section:

(1) "Aggregate lifetime limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount that may be paid with respect to such benefits under the policy with respect to an eligible employee, member or dependent;

(2) "annual limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the policy with respect to an eligible employee, member or dependent;

(3) "hospital, medical or surgical expense benefits" means benefits with respect to hospital, medical or surgical services, as defined under the terms of the policy, but does not include mental health benefits;

(4) "mental health benefits" means benefits with respect to mental health services, as defined under the terms of the policy, but does not include benefits with respect to treatment of substance abuse or chemical dependency;

(5) "alcoholism, drug abuse or substance use disorder benefits" means benefits with respect to services for the treatment of alcoholism, drug abuse or other substance use disorders, as defined under the terms of the policy.

(h) This section shall be effective for group policies providing hospital, medical or surgical expense benefits which are entered into or renewed after January 1, 1998. This section shall not apply to benefits for services furnished on or after December 31, 2008.

(i) The commissioner is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this section.

Sec. 24. K.S.A. 2008 Supp. 40-433 is hereby amended to read as follows: 40-433. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

(1) A policy issued by an insurance company organized under the laws of the state of Kansas on its employees and agents, which agents for the purpose of this act only shall be deemed employees, the beneficiaries under such policies to be persons designated by each insured, or a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, both subject to the following requirements: (a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless the proprietor or partner is actively engaged in and devotes a substantial part of their time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials. (b) The premium for the policy shall may be paid by the policyholder, either wholly from the employer's funds or funds contributed by the employer, or partly from such funds and partly from funds contributed by the insured employees. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contribution or entirely by the employees at their option. A policy on which no part of the premium

is to be derived from funds contributed by the insured employees shall insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer *or except those who reject the coverage in writing*. (c) The policy shall cover at least two employees at date of issue. (d) The amounts of insurance under the policy shall be based upon some plan, precluding individual selection either by the employees or by the employer or trustees.

(2) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements: (a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. (b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least 75% of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges shall insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. (c) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly, or may reasonably be expected to receive at least 100 new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the new entrants become insured. (d) The amount of insurance on the life of any debtor shall at no time exceed the amount owed by that debtor which is repayable in installments to the creditor. (e) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

(3) A policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements: (a) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

(b) The premium for the policy shall may be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance or entirely by the insured members at their option. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75% of the then eligible members excluding any as to whom evidence of individual insurability is not satisfactory to the insurence shall insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurance shall insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurance shall insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurance shall insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurance shall insure of encount of the section evidence of individual insurability is not satisfactory to the insurance shall insure all eligible members.

(c) The policy shall cover at least 25 members at date of issue.

- (d) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the members or by the union.

(4) A policy issued to the trustees of a fund established in this state by two or more employers if a majority of the employees to be insured of each employer are located within the state, or to the trustees of a fund established by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements: (a) The persons eligible for insurance shall be all of the employees of the employers or all of any class or classes thereof determined by conditions

pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees and the individual proprietor or partners if any employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless the proprietor or partner is actively engaged in and devotes a substantial part of their time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. (b) The premium for the policy shall may be paid by the trustees either wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or partly from such funds and partly from funds contributed by the insured employees or wholly from funds contributed by the employees or members at their option. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured persons. The policy shall insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer or except those who reject coverage in writing. (c) The policy shall cover at date of issue at least 100 persons and not less than an average of five persons per employer unit. (d) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or union.

(c) (d) The requirements of paragraphs (b) and (d) of this subsection governing employer contributions and amounts of insurance shall not apply to a voluntary term life insurance policy issued on a group basis.

(5) A policy issued to an association which has been organized and is maintained for purposes other than that of obtaining insurance, insuring at least 25 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" as used herein shall be deemed to include retired employees. The premiums for the policies shall be paid by the policyholder, either wholly from association funds, or funds contributed by the members of such association or by employees of such members or any combination thereof. The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured person or by the association or by the member.

(6) Any policy issued pursuant to this section may be extended to insure the employees against loss due to the death of their spouses, their children, their grandchildren, their spouse's children, their spouse's grandchildren, their parents, their spouse's parents, or any class or classes thereof, subject to the following requirements:

(a) The premium for the insurance shall may be paid by the policyholder, either from the employer's funds or from funds contributed by the insured employees, or from both. If any part of the premium is to be derived from funds contributed by the insured employees, the insurance with respect to spouses, their children, their grandchildren, their spouse's grandchildren, their parents and their spouse's parents may be placed in force only if at least 75% of the then eligible employees, excluding any as to whose family members' evidence of insurability is not satisfactory to the insure, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees, all eligible employees, excluding any as to whose family members' evidence of insurability is not satisfactory to the insure, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees, all eligible employees, excluding any as to whose family members' evidence of insurability is not satisfactory to the insure funds contributed by the employees, all eligible employees, excluding any as to whose family members' evidence of insurability is not satisfactory to the insure of the respect to their spouses, their children, their grandchildren, their spouse's children, their spouse's grand-children, their spouse's children, their spouse's grand-children, their spouse's children, their spouse's grand-children, their spouse's parents.

(b) The amounts of insurance shall be based upon some plan precluding individual selection either by the employees or by the policyholder, or employer and shall not exceed with respect to any spouse, child or parent 50% of the insurance on the life of such insured employee covering an employee's spouse, their children, their grandchildren, their spouse's children, their spouse's grandchildren or their spouse's parents shall not exceed 100% of the amount of insurance on the life of the insured employee.

(c) Upon termination of the insurance with respect to the spouse of an employee by reason of the employee's termination of employment or death, the spouse insured pursuant

to this section shall have the same conversion rights as to the insurance on such spouse's life as is provided for the employee under K.S.A. 40-434 and amendments thereto.

(d) Notwithstanding the provisions of K.S.A. 40-434 and amendments thereto only one certificate need be issued for delivery to an insured person if a statement concerning any dependent's coverage is included in such certificate.

(e) The requirements of paragraphs (a) and (b) of this subsection governing participation, contribution by an employer and amounts of insurance for dependents shall not apply to a voluntary term life insurance policy issued on a group basis.

(7) A policy may be issued to any other group which the commissioner of insurance finds is the proper subject of a group life insurance policy or contract. Any such group shall be subject to any appropriate conditions or provisions relating thereto which the commissioner may establish or require, consistent with the provisions of this act, and such conditions and provisions shall be included in the policy or contract.

New Sec. 25. (a) Any person who, at the time of an automobile accident resulting in injuries to that person, is required but fails to maintain personal injury protection benefits coverage mandated by the Kansas automobile injury reparations act, article 31 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, shall have no cause of action for recovery of noneconomic loss sustained as a result of an accident while operating an uninsured automobile. The provisions of this subsection shall not apply to any person who at the time of an automobile accident has failed to maintain coverage for a period of 30 days or less and who had maintained continuous coverage for at least one year immediately prior to such failure to maintain coverage.

(b) Any person who is convicted of, or pleads guilty to, a violation of K.S.A. 8-1014 or 8-1567, and amendments thereto, or a similar violation of law in another state or an ordinance of any city, or resolution of any county, in connection with an accident, shall have no cause of action for recovery of noneconomic loss sustained as a result of the accident.

(c) The provisions of this section shall apply to a cause of action arising on and after the effective date of this act.";

Also on page 2, in line 42, by striking "40-2c01 and 40-2c01a" and inserting "40-2,105a, 40-2c01, 40-2c01a and 40-433"; following line 43, by inserting the following:

"Sec. 27. On and after November I, 2009, K.S.A. 2008 Supp. 40-2258 is hereby repealed.";

And by renumbering sections accordingly;

In the title, in line 9, by striking all following the semicolon; in line 10, by striking "ments;"; also in line 10, by striking "40-2c01" and inserting "40-2,105a, 40-2c01, 40-433 and 40-2258"; in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

Also, **HB 2292**, as amended by House Committee, be amended on page 2, in line 40, preceding the period by inserting "relating to the extension of credit";

On page 4, in line 14, by striking "and" where it appears for the second time"; by striking all in line 15; in line 16, by striking all preceding the period;

On page 8, following line 1, by inserting the following:

"New Sec. 3. (a) No person shall engage in distressed property consulting services with a resident of this state unless:

(1) The registrant provided the consumer with the disclosures required under K.S.A. 58-2342, and amendments thereto;

(2) the registrant and the consumer have entered into a written distressed property consulting services agreement and a copy of the signed agreement has been provided to the consumer by the registrant. Such agreement shall be in at least 12 point type, signed and dated by the consumer and registrant, and shall include:

(A) The name, address and phone number of the consumer and the registrant;

(B) a complete description of the distressed property consulting service to be provided to the consumer and an itemization of any fees to be charged to the consumer;

(C) a notice of the consumer's right to rescind the distressed property consulting services agreement at any time by giving written notice to the registrant;

(D) a notice that the registrant is licensed with the Kansas office of the state bank commissioner under the Kansas credit services organization act; (E) a notice that the distressed property consultant service can not receive from the consumer any fee, compensation or gain until the registrant has completed everything described in the agreement;

(F) a notice that the consumer should not be asked by the registrant to sign any lien, mortgage, deed or real estate contract or to transfer all or any portion of their property interest into a trust.

(3) The registrant provides the consumer a disclosure that the registrant may not, as a condition of entering into a distressed property consulting services agreement, require a consumer to purchase any other product or service, nor solicit or offer to sell any other product or service to the consumer during the term of the distressed property consulting services agreement.

(b) This section shall be part of and supplemental to the Kansas credit service organization act.

Sec. 4. K.S.A. 50-1001 is hereby amended to read as follows: 50-1001. As used in this act:

(a) "Commissioner" refers to the securities *state bank* commissioner appointed under K.S.A. 75-6301 75-1304, and amendments thereto.

(b) "Loan" means any agreement to advance money or property in return for the promise to make payments for the money or property.

(c) "Loan broker" means any person who, in return for a fee from any person, promises to procure a loan for any person or assist any person in procuring a loan from any third party, or who promises to consider whether or not to make a loan to any person. Loan broker does not include:

(1) Any bank, savings bank, trust company, savings and loan association, credit union or any other financial institution regulated by any agency of the United States or any state;

(2) any person authorized to sell and service loans for the federal national mortgage association or the federal home loan mortgage corporation, issue securities backed by the government national mortgage association, make loans insured by the department of housing and urban development, make loans guaranteed by the veterans administration, or act as a correspondent of loans insured by the department of housing and urban development or guaranteed by the veterans administration whose activities constitute mortgage business, as defined in the Kansas mortgage business act, K.S.A. 9-2201 et seq., and amendments thereto;

(3) any insurance company; or

(4) any person arranging financing for the sale of the person's product.

(d) "Creditor" means any person to whom a loan is initially payable on the face of the note or contract evidencing the loan.

(e) "Person" means any individual, sole proprietorship, corporation, partnership, trust, association, joint venture, pool syndicate, unincorporated organization or other form of entity, however organized.

Sec. 5. K.S.A. 50-1002 is hereby amended to read as follows: 50-1002. It shall be unlawful for any person to engage in *or hold out to the public as willing to engage in the business of loan brokering with a person located in this state* unless registered under this act.

Sec. 6. K.S.A. 50-1003 is hereby amended to read as follows: 50-1003. (a) In order to be registered under this act a loan broker shall file an application for registration with the commissioner. The application for registration shall contain:

(1) The disclosure document required under subsection (b) of K.S.A. 50-1006, and amendments thereto, and the form of the disclosure statement proposed to be used under subsection (b)(1) of K.S.A. 50-1006, and amendments thereto;

(2) consent to service of process under subsection (e);

(3) evidence of the bond required in subsection (b); and

(4) a nonrefundable fee of \$250, which may be increased by rules and regulations adopted by the commissioner; and

(5) financial statements for the loan broker's last fiscal year presented in accordance with generally accepted accounting principles and reviewed by an independent accountant, in accordance with standards established by the American institute of certified public accountants.

(b) A loan broker must maintain a bond satisfactory to the commissioner in the amount of \$25,000, which shall be in favor of the state.

(c) Whenever the provisions of this act have been complied with, the commissioner shall issue a certificate of registration to the applicant, authorizing the applicant to engage in the business of loan brokering.

(b) Each applicant or registrant shall file with the commissioner a surety bond in a form acceptable to the commissioner. The surety bond shall be issued by a surety or insurance company authorized to conduct business in this state, securing the applicant's or registrant's faithful performance of all duties and obligations of a registrant. The surety bond shall:

(1) Be payable to the office of the state bank commissioner;

(2) provide that the bond may not be terminated without 30 days prior written notice to the commissioner;

(3) provide that the bond shall not expire for two years after the date of surrender, revocation or expiration of the applicant's or registrant's registration, whichever shall first occur;

(4) be available for:

(A) The recovery of expenses, fines and fees levied by the commissioner under this act; and

(B) payment of losses or damages which are determined by the commissioner to have been incurred by any consumer as a result of the applicant's or registrant's failure to comply with the requirements of this act; and

(5) be in the amount of \$50,000. The amount of the bond may be increased up to \$1,000,000, as further defined by rules and regulations adopted by the commissioner.

(c) The application shall be approved and a nontransferable and nonassignable registration shall be issued to the applicant provided:

(1) The commissioner has received the complete application and fee required by this section; and

(2) the commissioner determines the financial responsibility and condition, character, qualifications and fitness of the applicant warrants a belief that the business of the applicant will be conducted competently, honestly, fairly and in accordance with all applicable state and federal laws.

(d) If the commissioner fails to issue a registration within 60 days after a filed application is deemed complete by the commissioner, the applicant may make written request for hearing. The commissioner shall conduct a hearing in accordance with the Kansas administrative procedure act.

 $\frac{d}{d}(e)$ An application for registration becomes effective as of the date specified on the certificate of registration. Every registration is effective until January 1 of the year after it goes into effect.

(c) (f) Every applicant for registration shall file with the commissioner, in such form as the commissioner prescribes, an irrevocable consent appointing the secretary of state to be the applicant's agent to receive service of any lawful process in any noncriminal suit, action or proceeding against the applicant arising from the violation of any provision of this act. Service shall be made in accordance with article 3 of chapter 60 of the Kansas Statutes Annotated.

Sec. 7. K.S.A. 50-1004 is hereby amended to read as follows: 50-1004. (a) A loan broker may not continue engaging in the business of loan brokering unless the broker's registration is renewed annually. A loan broker shall renew the registration by filing with the commissioner, at least 30 days before the expiration of the registration, an application containing any information the commissioner may require to indicate any material change from the information contained in the applicant's original application or any previous application.

(b) An application for renewal must be accompanied by a fee of $\frac{100}{100}$ \$250, which may be increased by rules and regulations adopted by the commissioner.

Sec. 8. K.S.A. 50-1005 is hereby amended to read as follows: 50-1005. All fees and funds accruing from the administration of this act shall be accounted for by the commissioner and shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund collected by the commissioner pursuant to this act shall be subject to the provisions of K.S.A. 75-1308, and amendments thereto.

Sec. 9. K.S.A. 50-1006 is hereby amended to read as follows: 50-1006. (a) At least seven days before the time any person signs a contract for the services of a loan broker, or seven days before the loan broker receives any consideration upon the contract, whichever occurs first, the loan broker must provide to the contracting person a written disclosure document that meets the requirements set forth in subsection (b).

(b) A written disclosure document shall contain the following information:

(1) A disclosure statement which shall be the cover sheet and shall be entitled in at least 10 point boldface capital letters "DISCLOSURES REQUIRED BY KANSAS LAW." Under this title shall appear the statement in at least 10 point type that "The Kansas securities office of the state bank commissioner has not reviewed and does not approve, recommend, endorse or sponsor any loan brokerage contract. The information contained in this disclosure has not been verified by the commissioner. If you have any questions see an attorney before you sign a contract or agreement. As a consumer, you may submit a complaint or inquiry about this loan broker by delivering a written statement to the Office of the State Bank Commissioner, 700 Jackson, Suite 300, Topeka, Kansas 66603." Nothing except the title and the required statement shall appear on the cover sheet;

(2) the name of the individual doing business with the consumer and form of organization of the broker, the names under which the broker has done, is doing, or intends to do business, and the name of any parent organization or affiliate of the broker and the license number of the loan broker;

(3) the names, addresses and titles of the broker's officers, directors, trustees, general partners, general managers, principal executives and any other person performing similar duties,

-(4) (3) the length of time the broker has conducted business as a loan broker;

(5) (4) a full and detailed description of the actual services that the loan broker undertakes to perform for the prospective borrower;

 $\frac{(6)}{(5)}$ (5) the number of loan brokerage contracts the broker has entered into within the past 12 months;

 $(\overline{7})$ (6) the number of loan brokerage contracts in which the broker has successfully obtained a loan for the prospective borrower within the last 12 months and the dollar amount of the loans;

(8) financial statements for the loan broker's last fiscal year presented in accordance with generally accepted accounting principles, and reviewed by an independent accountant in accordance with standards established by the American institute of certified public accountants, except that for initial applications for registration, the financial statements shall include a balance sheet dated within four months of filing for registration;

- (9) (7) a specific statement of the circumstances under which the broker will be entitled to obtain or retain consideration from the party with whom the broker contracts; and

(10) (8) any other information the commissioner may require.

(c) A loan broker shall amend the disclosure document required by subsection (b) whenever necessary to prevent it from containing any false or misleading statement of a material fact and shall deliver a copy of the amended disclosure document to the commissioner on or before the date of the amendment.

(d) A loan broker shall deliver to any person who proposes to become obligated for a loan an estimated disclosure document if the creditor would be required to deliver to the person a disclosure document under the Truth-in-Lending Act (15 U.S.C. 1601-1667e) for the transaction. The estimated disclosure document shall:

(1) Be delivered to the person before the person becomes contractually obligated on the loan; or

(2) be delivered or placed in the mail to the person not later than three business days after the person enters into an agreement with the loan broker whichever occurs first. The estimated disclosure document must contain all of the information and be in the form required by the Truth-in-Lending Act (15 U.S.C. 1601-1667e) and regulations under the act. However, the annual percentage rate, finance charge, total of payments and other matters required under the Truth-in-Lending Act (15 U.S.C. 1601-1667e) shall be adjusted to reflect the amount of all fees and charges of the loan broker that the creditor could exclude from an estimated disclosure document. The estimated disclosure document must

state at the top in at least 10 point type: "The following is an estimated disclosure document showing your loan transaction as if the fees and charges you are scheduled to pay us were charged to you directly by the creditor." After the estimated disclosure document is delivered to any person, the loan broker shall deliver to the person an additional statement redisclosing all items if the actual annual percentage rate will vary from the annual percentage rate contained in the original estimated disclosure by more than 0.125%. Any required additional disclosure document shall be delivered or placed in the mail before consummation of the loan or after three days from when the information that requires redisclosure becomes available, whichever occurs first.

Sec. 10. K.S.A. 50-1008 is hereby amended to read as follows: 50-1008. (a) The commissioner may deny, suspend $\overline{\sigma}$, revoke or refuse to renew the registration of a loan broker if the commissioner finds, after notice and opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that the loan broker:

(1) Fails (a) Has failed to maintain the bond required under K.S.A. 50-1003, and amendments thereto;

 $\frac{(2)}{(b)}$ is insolvent;

(3) (c) has violated any provision of this act, any rule and regulation or order lawfully made pursuant to this act;

(4) (d) has filed with the commissioner any document or statement containing any false representation of a material fact or omitting to state a material fact; or

(5) (e) has been convicted, within 10 years before the date of the application, renewal or review, of any crime involving fraud or deceit.;

(f) has been the subject of any disciplinary action by the commissioner or any other state or federal regulatory agency;

(g) has had a final judgment entered against such person in a civil action and the commissioner finds, based upon the conduct on which the judgment is based, that granting a registration to such person would be contrary to the public interest;

(h) has engaged in deceptive business practices; or

(i) has refused to furnish information required by the commissioner within a reasonable time as established by the commissioner.

(b) The commissioner may not enter a final order denying, suspending or revoking the registration of a loan broker without prior notice to all interested parties, opportunity for a hearing and written findings of fact and conclusions of law. The commissioner may by summary order deny, suspend or revoke a registration pending final determination of any proceeding under this section. Upon the entry of a summary order, the commissioner shall promptly notify all interested parties that it has been entered, of the reasons for the summary order and, that upon receipt by the commissioner of a written request from a party, the matter will be set for hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If no hearing is requested and none is ordered by the commissioner, after notice of the hearing has been piven to all interested persons and the hearing has been held, may modify or vacate the order or extend it until final determination.

Sec. 11. K.S.A. 50-1009 is hereby amended to read as follows: 50-1009. (a) The commissioner may do the following:

(1) Adopt rules and regulations to implement this act;

(2) make investigations and examinations:

(A) In connection with any application for registration of any loan broker or any registration already granted; or

(B) whenever it appears to the commissioner, upon the basis of a complaint or information, that reasonable grounds exist for the belief that an investigation or examination is necessary or advisable for the more complete protection of the interests of the public;

(3) appoint special investigators to aid in investigations conducted pursuant to this act. Such special investigators shall have the same authority with respect to enforcement of this act as specified for special investigators appointed under subsection (a) of K.S.A. 2005 Supp. 17-12a602, and amendments thereto, in enforcing the Kansas uniform securities act; - (4) (3) charge as costs of investigation or examination all reasonable expenses, including a per diem prorated upon the salary of the commissioner or employee and actual traveling and hotel expenses. All reasonable expenses are to be paid by the party or parties under investigation or examination;

(5) (4) issue notices and orders, including cease and desist notices and orders, after making an investigation or examination under paragraph (2). The commissioner may also bring an action on behalf of the state to enjoin a person from violating this act. The commissioner shall notify the person that an order or notice has been issued, the reasons for it and that a hearing will be set in accordance with the provisions of the Kansas administrative procedures act after the commissioner receives a written request from the person requesting a hearing;

(6) (5) sign all orders, official certifications, documents or papers issued under this act or delegate the authority to sign any of those items to a deputy;

(7) (6) hold and conduct hearings;

(8) (7) hear evidence;

(9) (8) conduct inquiries with or without hearings;

(10) (9) receive reports of investigators or other officers or employees of the state of Kansas or of any municipal corporation or governmental subdivision within the state;

(11) (10) administer oaths or cause them to be administered;

(12) (11) subpoena witnesses and compel them to attend and testify;

(13) (12) compel the production of books, records and other documents; and

(14) (13) order depositions to be taken of any witness residing within or without the state. The depositions shall be taken in the manner prescribed by law for depositions in civil actions and made returnable to the commissioner.

(b) If any person refuses to obey a subpoena issued under this act, the commissioner may make application to any court of competent jurisdiction to order the person to appear before the commissioner and produce documentary evidence or give evidence as directed in the subpoena. The failure to obey the order of the court shall be subject to punishment by the court as contempt of court.

(c) No person shall be excused from complying with a subpoena on the ground that the testimony or evidence required may tend to incriminate the person or subject the person to a penalty or forfeiture. No individual may be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter or thing which the individual is compelled to testify or produce evidence, after claiming the privilege against self-incrimination. However, the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. An individual is not excused from attending, testifying, filing a statement, producing a document or other evidence or obeying a subpoena of the commissioner under this act or in an action or proceeding instituted by the commissioner under this act on the ground that the required testimony, statement, document or other evidence, directly or indirectly, may tend to incriminate the individual or subject the individual to a criminal fine, penalty or forfeiture. If the individual refuses to testify, file a statement or produce a document or other evidence on the basis of the individual's privilege against self-incrimination, the commissioner may compel the testimony, the filing of the statement, the production of the document or the giving of other evidence. The testimony, document or other evidence compelled under such an order may not be used, directly or indirectly, against the individual in a criminal case, except in a prosecution for perjury or contempt or otherwise failing to comply with the order.

(d) In any prosecution, action, suit or proceeding based upon or arising out of this act, the commissioner may sign a certificate showing compliance or noncompliance with this act by any loan broker. This shall constitute prima facie evidence of compliance or noncompliance with this act and shall be admissible in evidence in any action at law or in equity to enforce this act.

(e) The state bank commissioner has authority to investigate conduct that occurred before the state bank commissioner became administrator of this act, and to bring actions or proceedings involving such conduct.

Sec. 12. K.S.A. 50-1011 is hereby amended to read as follows: 50-1011. (a) If the commissioner determines, after notice and opportunity for a hearing, that a person has violated this act, the commissioner may, in addition to all other remedies, impose a civil penalty upon the person in an amount not to exceed $\frac{55,000}{50,000} \pm 10,000$ for each violation.

(b) The commissioner may bring an action in the district court of Shawnee county to enforce payment of any penalty imposed under this section.

Sec. 13. K.S.A. 50-1016 is hereby amended to read as follows: 50-1016. (a) The following persons are exempt from the requirements of K.S.A. 50-1002, 50-1003, 50-1004, 50-1006, 50-1007, 50-1008, 50-1014 and 50-1015, and amendments thereto:

(1) Any attorney while engaging in the practice of law;

(2) any certified public accountant with a permit to practice under K.S.A. 1-310, and amendments thereto, while engaged in practice as a certified public accountant or any independent public accountant engaged in the practice of public accounting whose service in relation to procurement of a loan is incidental to their practice;

(3) any person licensed as a real estate broker or salesperson under K.S.A. 58-3039, and amendments thereto, while rendering services in the ordinary course of a transaction in which a license as a real estate broker or salesperson is required;

(4) any broker-dealer, agent, investment adviser or investment adviser representative registered under K.S.A. 2005 Supp. 17-12a401, 17-12a402, 17-12a403 or 17-12a404, and amendments thereto;

(5) any person whose fee is wholly contingent on the successful procurement of a loan from a third party and to whom no fee, other than a bona fide third party fee, is paid before the procurement;

 $(\hat{6})$ any person who is a creditor, or proposed to be a creditor, for any loan; and

(7) any feedlot operator licensed under K.S.A. 47-1503, and amendments thereto.

(b) As used in this section, "bona fide third party fee" includes fees for:

(1) Credit reports, appraisals and investigations; and

(2) if the loan is to be secured by real property, title examinations, an abstract of title, title insurance, a property survey and similar purposes.

(c) As used in this section, "successful procurement of a loan" means that a binding commitment from a creditor to advance money has been received and accepted by the borrower.

(d) The burden of proof of any exemption or classification provided in this act shall be on the party claiming the exemption or classification.

Sec. 14. K.S.A. 50-1117 is hereby amended to read as follows: 50-1117. Definitions as used in this act: (a) "Commissioner" means the state bank commissioner.

(b) "Consumer" means an individual who is a resident of this state.

(c) "Credit services organization" means a person who engages in, or holds out to the public as willing to engage in, the business of debt management services for a fee, compensation or gain, or in the expectation of a fee, compensation or gain.

(d) "Debt management service" means:

(1) Receiving or offering to receive funds from a consumer for the purpose of distributing the funds among such consumer's creditors in full or partial payment of such consumer's debts;

(2) improving or offering to improve a consumer's credit record, history or rating; or

(3) negotiating or offering to negotiate to defer or reduce a consumer's obligations with respect to credit extended by others.

(e) "Distressed property" means a residential real property consisting of one to four family dwelling units that is in foreclosure or at a risk of loss or whose owner is more than 60 days delinquent on any loan that is secured by the property.

(f) "Distressed property consultant" means a person who engages in or holds out to the public as willing to engage in the business of distressed property consulting for a fee, compensation or gain, or in the expectation of a fee, compensation or gain.

(g) (1) "Distressed property consulting" includes soliciting, representing or offering to any owner to perform any service which the person represents will do the following:

(A) Avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or a foreclosure sale;

(B) stop or postpone the foreclosure sale of a residence in foreclosure;

(C) obtain any forbearance from any beneficiary or mortgagee;

(D) assist the owner to exercise any right of redemption;

(E) obtain any extension of the period within which the owner may reinstate such owner's obligation;

 (\vec{F}) obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a deed of trust or mortgage on a distressed property or contained in any such deed of trust or mortgage;

(G) assist the owner in obtaining a loan or advance of funds; or

(H) save the owner's residence from foreclosure.

(2) "Distressed property consulting" does not include any of the following:

(A) Services performed by a person who held a lien prior to the property becoming a distressed property when the person performs the services in connection with the obligation or lien;

(B) any service performed by a bank, trust company, savings and loan association or credit union authorized or chartered under the laws of this state or the United States; or

(C) services performed by an individual licensed as a real estate broker or salesperson pursuant to K.S.A. 58-3034 et seq., and amendments thereto, while providing any real estate brokerage services as defined under subsection (f) of K.S.A. 58-3035, and amendments thereto.

(e) (h) "Insolvent" means a person whose debts exceed their assets.

(i) "Owner" means the record owner of any distressed property.

(f) (*j*) "Person" means any individual, corporation, partnership, association, unincorporated organization or other form of entity, however organized, including a nonprofit entity. (g) (*k*) "Related interest" means a person:

(1) With respect to an individual who is:

(A) The spouse of the individual;

(B) a brother, brother-in-law, sister, sister-in-law of the individual;

(C) an ancestor or lineal descendant of the individual or the individual's spouse; and

(D) any other relative, by blood, adoption or marriage, of the individual or such individual's spouse who shares the same residence with the individual.

(2) With respect to a corporation, partnership, association, unincorporated organization or other form of entity, however organized, including a nonprofit entity, which is:

(A) Directly or indirectly controlling, controlled by or under common control by a person; or

(B) an officer or director of a person or a person performing similar functions.

 $\frac{h}{l}$ (l) "Registrant" means a person who is registered by the commissioner as a credit services organization or distressed property consultant.

(i) (m) "Trust account" means an account established by the applicant or registrant in a federally insured financial institution used to hold funds paid by consumers to a credit services organization for disbursement to creditors of consumers that is designated as a trust account or other appropriate designation indicating the funds in the account are:

(1) Not funds of the applicant or registrant or its owners, officers or employees; and

(2) unavailable to creditors of the applicant or registrant.

Sec. 15. K.S.A. 50-1118 is hereby amended to read as follows: 50-1118. (a) No person shall engage in, or hold such person out as willing to engage in any credit services organization business *or distressed property consulting* with a resident of this state without first obtaining registration from the commissioner. Any person required to be registered as a credit services organization *or distressed property consultant* shall submit to the commissioner. The application for registration shall include:

(1) The applicant's name, business address, telephone number and website address, if any;

(2) the name and address of each owner, officer, director, member or partner of the applicant;

(3) a description of the ownership interest of any officer, director, member, partner, agent or employee of the applicant in any affiliate or subsidiary of the applicant or in any other entity that provides any service to the applicant or any consumer relating to the applicant's credit services organization business; (4) a description of the applicant's consumer education program; and

(5) any other information the commissioner may deem necessary to evaluate the financial responsibility and condition, character, qualifications and fitness of the applicant.

(b) Each application for registration shall be accompanied by a nonrefundable fee of \$100. The amount of the registration fee may be increased by rules and regulations adopted by the commissioner.

(c) The application shall be approved and a nontransferable and non-assignable registration shall be issued to the applicant provided:

(1) The commissioner has received the complete application and fee required by this section; and

(2) the commissioner determines the financial responsibility and condition, character, qualifications and fitness of the applicant warrants a belief that the business of the applicant will be conducted competently, honestly, fairly and in accordance with all applicable state and federal laws.

(d) Each credit services organization registration issued under this section shall expire on June 30 of each year. A registration shall be renewed by filing with the commissioner, at least 30 days prior to the expiration of the registration, a complete renewal application, containing information the commissioner requires to determine the existence and effect of any material changes from the information contained in the applicant's original application, annual reports or prior renewal applications. Each renewal shall be accompanied by a nonrefundable renewal fee which shall be established by rules and regulations of the commissioner.

(e) If the commissioner fails to issue a registration within 60 days after a filed application is deemed complete by the commissioner, the applicant may make written request for hearing. The commissioner shall conduct a hearing in accordance with the Kansas administrative procedure act.

Sec. 16. K.S.A. 50-1119 is hereby amended to read as follows: 50-1119. Each applicant or registrant shall file with the commissioner a surety bond in a form acceptable to the commissioner. The surety bond shall be issued by a surety or insurance company authorized to conduct business in this state, securing the applicant's or registrant's faithful performance of all duties and obligations of a registrant. The surety bond shall:

(a) Be payable to the office of the state bank commissioner;

(b) provide that the bond may not be terminated without 30 days prior written notice to the commissioner;

(c) provide that the bond shall not expire for two years after the date of surrender, revocation or expiration of the applicant's or registrant's registration, whichever shall first occur;

(d) be available for:

 $\left(1\right)$ The recovery of expenses, fines and fees levied by the commissioner under this act; and

(2) payment of losses or damages which are determined by the commissioner to have been incurred by any consumer as a result of the applicant's or registrant's failure to comply with the requirements of this act; and

(e) the amount of the bond shall be *not less than* \$25,000. The amount of the bond may be increased up to \$1,000,000, as further defined by rules and regulations adopted by the commissioner.

Sec. 17. K.S.A. 50-1121 is hereby amended to read as follows: 50-1121. No person required to be registered under this act shall: (a) Delay payment of a consumer's debt for the purpose of increasing interest, costs, fees or charges payable by the consumer.

(b) Make any misrepresentation of any material fact or false promise intended to:

(1) Influence, persuade or induce a consumer to enter into a debt management services agreement or distressed property consulting agreement; or

(2) cause or contribute to any misrepresentation by any other person acting on such person's behalf.

(c) Make or use any false or misleading representation in the offer or sale of the services of a debt management services agreement or, credit services organization business or *distressed property consultant*, including, but not limited to, guaranteeing to "erase bad credit"

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or words to that effect unless the representation clearly discloses that guaranteed action can be done only if the consumer's credit history is inaccurate or obsolete.

(d) Engage, directly or indirectly, in any fraudulent or deceptive act, practice or course of business in connection with the offer or sale of the services of a credit services organization *or distressed property consulting*.

(e) Make, or advise a consumer to make, any statement with respect to a consumer's credit worthiness, credit standing or credit capacity that is false or misleading, or that should be known by the exercise of reasonable care to be false or misleading, to a consumer reporting agency or to a person who has extended credit to a consumer or to whom a consumer is applying for an extension of credit.

(f) Advertise or cause to be advertised, in any manner whatsoever, the services of a credit services organization *or distressed property consultant* to Kansas consumers without first obtaining proper registration from the commissioner.

(g) Receive compensation for rendering debt management services *or distressed property consulting* where the person has otherwise acted as a creditor for the consumer.

(h) Transfer, assign or attempt to transfer or assign, a registration to any other person.

(i) Conduct credit services organization activities *or distressed property consulting* using any name other than the name or names approved by the commissioner.

(j) Operate as a collection agency.

(k) Receive or charge any fee in the form of a promissory note or other promise to pay.

(l) Accept or receive any reward, bonus, premium, commission or any other consideration for referring a consumer to any person or related interest.

(m) Give a reward, bonus, premium, commission or any other consideration for the referral of a consumer to the registrant's credit services organization business *or distressed property consultant*.

(n) Lend money or provide credit to a consumer.

(o) Obtain a mortgage or other security interest in real or personal property owned by a consumer.

(p) Structure a debt management services agreement in any manner that would result in a negative amortization of any of the consumer's debts.

(q) Charge for or provide credit insurance.

(r) Purchase any debt or obligation of a consumer.

(s) Use any communication which simulates in any manner a legal or judicial process, or which gives the false appearance of being authorized, issued or approved by a government, governmental agency or attorney-at-law.

(t) While operating as a registrant, or a director, manager or officer of such registrant or any related interest of such registrant, be a director, manager, officer, owner or related interest of any creditor or a subsidiary of any such creditor, that is receiving or will receive payments from the registrant on behalf of a consumer with whom the registrant has entered into a debt management services agreement or distressed property consulting agreement.

(u) Attempt to cause a consumer to waive or agree to forego rights or benefits under this act.

(v) Request that a consumer transfer any portion of such consumer's ownership interest in a distressed property to a trust.

(w) Take any form of ownership interest in a distressed property pursuant to a distressed property consulting agreement or request or require that any form of ownership interest be transferred to a related interest of the registrant.

(x) Make any inference to a consumer that entering into a distressed property consulting services agreement will result in the consumer being allowed to remain in such consumer's home.

(y) Make any inference to a consumer that entering into a distressed property consulting agreement will result in an improved credit rating.

(z) Receive any compensation prior to the completion of all activities described in a distressed property consulting agreement.

Sec. 18. K.S.A. 50-1122 is hereby amended to read as follows: 50-1122. (a) Within four calendar days after receipt of any funds paid to the registrant by or on behalf of a consumer

for disbursement to such consumer's creditors, a registrant shall deposit such funds in a trust account established for the benefit of consumers.

(b) A registrant shall:

(1) Maintain separate records of account for each consumer to whom the registrant provides debt management services or *distressed property consulting services*;

(2) disburse any funds paid by or on behalf of a consumer to such consumer's creditors within 10 calendar days after receipt of such funds;

(3) correct any misdirected payments resulting from an error by the registrant;

(4) reimburse the consumer for any actual fees or other charges imposed by a creditor as a result of the misdirection; and

(5) disburse a consumer's funds from the trust account only to such consumer's creditors or back to the consumer.

(c) If a consumer rescinds the debt management services agreement, all funds held in the trust account on behalf of such consumer shall be refunded to the consumer within 10 calendar days from receipt of rescission by the registrant.

(d) A registrant shall not commingle any trust account established for the benefit of consumers with any operating accounts of the registrant or its related interests.

Sec. 19. K.S.A. 50-1124 is hereby amended to read as follows: 50-1124. (a) On or before March 1, of each year, each registrant shall file with the commissioner an annual report relating to credit services organization business *or distressed property consulting* conducted by the registrant during the preceding calendar year. The annual report shall be on a form prescribed by the commissioner.

(b) Within 15 calendar days after the occurrence of any of the following events, a registrant shall file a written report with the commissioner describing the event and its expected impact on the registrant's business:

(1) The filing for bankruptcy or reorganization by the registrant;

(2) the institution of a revocation, suspension or other proceeding against the registrant by a governmental authority that is related to the registrant's credit services organization business or distressed property consulting business in any state; and

(3) a felony conviction of the registrant or any of its owners, officers, principals, directors, partners, members or debt management counselors.

(c) If a registrant fails to make any report required by this section to the commissioner, the commissioner may require the registrant to pay a late penalty of \$100 for each day the report is overdue.

Sec. 20. K.S.A. 50-1125 is hereby amended to read as follows: 50-1125. (a) Each registrant shall maintain and preserve complete and adequate business records including a general ledger containing all assets, liabilities, capital, income and expense accounts for a period of five years.

(b) Each registrant shall maintain and preserve complete and adequate records of each debt management services agreement or distressed property consulting agreement during the term of the agreement and for a period of five years from the date of cancellation or completion of the agreement with each consumer. Such records shall contain all consumer information including, but not limited to, the debt management services agreement or distressed property consulting agreement and any extensions thereto, payments, disbursements, charges and correspondence.

(c) If the registrant's records are located outside this state, the registrant shall provide the records to the commissioner within three calendar days or, at the commissioner's discretion, pay reasonable and necessary expenses for the commissioner or commissioner's designee to examine them at the place where they are maintained.

Sec. 21. K.S.A. 50-1126 is hereby amended to read as follows: 50-1126. (a) No registrant shall impose any fees or other charges on a consumer, or receive any funds or other payments from a consumer or another person on behalf of a consumer:

(1) Except as provided in paragraph (5) of subsection (b), until after the registrant and consumer have executed a debt management services agreement; and

(2) except as allowed under this section, or as permitted by rule and regulation adopted by the commissioner.

(b) A registrant may:

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(1) Charge a one-time consultation fee not exceeding \$50. The cost of a credit report on a consumer shall be paid from the consultation fee paid by the consumer;

(2) charge and collect monthly the lesser of a total maintenance fee of $\frac{\$20}{\$20}$ \$35 per month, or \$5 per month for each creditor of a consumer that is listed in the debt management services agreement between the registrant and the consumer;

(3) collect from or on behalf of a consumer the funds for disbursement to creditors that the consumer has agreed to pay to the registrant under the debt management services agreement;

(4) accept a voluntary contribution from a consumer for a debt management service provided by the registrant to the consumer if the aggregate amount of the voluntary contribution and any other fees received by the registrant from the consumer does not exceed the total amount the registrant is authorized to charge the consumer under paragraphs (1) and (2) of this subsection;

(5) charge the consumer, if provided to the consumer, a fee, not to exceed \$50, for a counseling session, an educational program, or materials and supplies if the consumer does not enter into a debt management services agreement with the registrant; and

(6) accept fee payments from a consumer's creditors for debt management services rendered to a consumer, provided the consumer's creditor does not assess the fee to the consumer.

(c) No registrant shall:

(1) Charge a fee to a consumer, if the consumer enters into a debt management services agreement with the registrant, to:

(A) Prepare a financial analysis or an initial budget plan for the consumer;

(B) counsel a consumer about debt management;

(C) provide a consumer with the consumer education program described in the registrant's application to engage in business as a credit services organization; or

(D) rescind a debt management services agreement.

(2) Require a voluntary contribution from a consumer for any service provided by the registrant to the consumer.

(3) As a condition of entering into a debt management services agreement, require a consumer to purchase for a fee a counseling session, an educational program or materials and supplies.

(d) If a registrant imposes any fee or other charge or receives any funds or other payments not authorized under this section, except as a result of an accidental and bona fide error:

(1) The debt management services agreement shall be void; and

(2) the registrant shall return the amount of the unauthorized fees, charges, funds or payments to the consumer.

Sec. 22. K.S.A. 50-1128 is hereby amended to read as follows: 50-1128. This act shall be administered by the commissioner. In addition to other powers granted by this act, the commissioner, within the limitations provided by law, may exercise the following powers:

(a) Adopt, amend and revoke rules and regulations as necessary to carry out the intent and purpose of this act.

(b) Make any investigation and examination of the registrant's operations, books and records as the commissioner deems necessary:

(1) For the protection of the public;

(2) to determine whether any registration should be granted, denied or revoked;

(3) to determine whether any person has violated or is about to violate any provision of this act, any rule and regulation promulgated thereunder or any order issued thereunder; or

(4) to aid in the enforcement of this act.

(c) For examination purposes the commissioner, or the commissioner's designee, shall have free and reasonable access to the offices, places of business and all records of the registrant and the registrant's related interests that relate to the debt management or credit services organization business. The commissioner may designate persons, including comparable officials of the state in which the records are located, to inspect the records on the commissioner's behalf.

(d) Charge reasonable costs, including a per diem and actual travel and lodging expenses, of investigation, administration or examination to be paid by the applicant or registrant under investigation, examination or requiring administrative action, and maintain an action in any court to recover such costs Charge reasonable costs of investigation, examination and administration of this act, to be paid by the applicant or registrant. The commissioner shall establish such fees in such amounts as the commissioner may determine to be sufficient to meet the budget requirements of the commissioner for each fiscal year. Charges for administration of this act shall be based on the volume of consumer accounts.

(e) To order any registrant or person to cease any activity or practice which the commissioner deems to be deceptive, dishonest, or a violation of this act, or of other state or federal law, or unduly harmful to the interests of the public.

(f) Exchange any information regarding the administration of this act with any agency of the United States or any state which regulates the applicant or registrant or administers statutes, rules and regulations or programs related to debt management or credit services organization laws. The commissioner may release examination reports and correspondence regarding the reports in connection with a disciplinary proceeding conducted by the commissioner, a liquidation proceeding or a criminal investigation or proceeding. Additionally, the commissioner may furnish to federal or other state regulatory agencies or any officer or examiner thereof, a copy of any or all examination reports and correspondence regarding the reports made by the commissioner or the commissioner's designees.

(g) Disclose to any person or entity that an applicant's or registrant's application or registration has been denied, suspended, revoked or refused renewal.

(h) Require or permit any person to file a written statement, under oath or otherwise as the commissioner may direct, setting forth all the facts and circumstances concerning any apparent violation of this act, any rule and regulation promulgated hereunder, or any order issued pursuant to this act.

(i) Receive, as a condition in settlement of any investigation or examination, a payment designated for consumer education to be expended for such purpose as directed by the commissioner.

 $\left(j\right)$ Delegate the authority to sign any orders, official documents or papers issued under or related to this act to the deputy of consumer and mortgage lending in the office of the state bank commissioner.

(k) Require fingerprinting of any registrant, agent acting on behalf of a registrant or other person as deemed appropriate by the commissioner, or the commissioner's designee. The commissioner, or commissioner's designee, may submit such fingerprints to the Kansas bureau of investigation, federal bureau of investigation or other law enforcement agency for the purposes of verifying the identity of such persons and obtaining records of their criminal arrests and convictions.

(1) Charge, establish and collect from registrants such fees as are necessary and in such amounts as the commissioner may determine to be sufficient to meet the expense requirements of the commissioner in administering this act.

(m) Seize and distribute a registrant's trust account funds to protect consumers and the public interest.

(n) For the purpose of any examination, investigation or proceeding under this act, the commissioner or the commissioner's designee may administer oaths and affirmations, subpoena witnesses, compel such witnesses' attendance, adduce evidence and require the production of any matter which is relevant to the examination or investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of relevant information or items.

Sec. 23. K.S.A. 50-1133 is hereby amended to read as follows: 50-1133. (a) Any consumer injured by a violation of this act or any rule and regulation promulgated thereunder may bring an action for recovery of damages. The damages awarded may not be less than the amount paid by the consumer to the credit services organization *or distressed property consultant* plus reasonable attorney fees and court costs.

(b) The consumer may also be awarded punitive damages.";

And by renumbering sections accordingly;

Also on page 8, in line 2, preceding "K.S.A." by inserting "K.S.A. 50-1001, 50-1002, 50-1003, 50-1004, 50-1005, 50-1006, 50-1008, 50-1009, 50-1011, 50-1016, 50-1117, 50-1118, 50-1119, 50-1121, 50-1122, 50-1124, 50-1125, 50-1126, 50-1128 and 50-1133 and";

In the title, in line 11, preceding "amending" by inserting "concerning certain consumer loan services;"; also in line 11, preceding "K.S.A." by inserting "K.S.A. 50-1001, 50-1002, 50-1003, 50-1004, 50-1005, 50-1006, 50-1008, 50-1009, 50-1011, 50-1016, 50-1117, 50-1118, 50-1119, 50-1121, 50-1122, 50-1124, 50-1125, 50-1126, 50-1128 and 50-1133 and"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2165**, **HB 2201**, both as amended by House Committee, be passed.

Also, **HB 2097** be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2097," as follows:

"SENATE Substitute for HOUSE BILL No. 2097 By Committee on Judiciary

"AN ACT concerning crimes, punishment and criminal procedure; relating to sentencing for certain felony drug crimes; community corrections; amending K.S.A. 21-4611 and K.S.A. 2008 Supp. 75-5291 and repealing the existing sections.";

and the substitute bill be passed.

Committee on Natural Resources recommends Substitute for HB 2050 be passed.

Committee on **Public Health and Welfare** recommends **SB 305** be amended on page 2, in line 19, after "means" by inserting: ": (1) Officers, directors, employees, agents of domestic not-for-profit corporations accredited by the joint commission, inc. and licensed by the department of health and environment to provide child placing, case management, psychiatric residential treatment and psychiatric hospital services reimbursed through contracts with the state of Kansas; and (2)"; in line 27, by striking "(1)" and inserting "(A)"; in line 33, by striking all after "the" where it appears for the last time; in line 34, by striking "(2)" and inserting "(B)"; in line 39, by striking "(3)" and inserting "(C)"; in line 41, by striking "depart-"; in line 42, by striking all before "gratuitously" and inserting "Kansas health policy authority";

On page 3, in line 8, by striking "(4)" and inserting "(D)"; and the bill be passed as amended.

Also, **HB 2221**, as amended by House Committee, be amended on page 1, by striking all in lines 14 through 43;

On page 2, by striking all in lines 1 through 22 and inserting the following:

"Section 1. On and after January 2, 2010, K.S.A. 21-3105 is hereby amended to read as follows: 21-3105. A crime is an act or omission defined by law and for which, upon conviction, a sentence of death, imprisonment or fine, or both imprisonment and fine, is authorized or, in the case of a traffic infraction or a cigarette or tobacco infraction, a fine is authorized. Crimes are classified as felonies, misdemeanors, traffic infractions and cigarette or tobacco infractions.

(1) A felony is a crime punishable by death or by imprisonment in any state correctional institution or a crime which is defined as a felony by law.

(2) A traffic infraction is a violation of any of the statutory provisions listed in subsection (c) of K.S.A. 8-2118, and amendments thereto.

(3) A cigarette or tobacco infraction is a violation of K.S.A. 21-4009 through 21-4014 and subsection (m) or (n) of K.S.A. 79-3321, and amendments thereto.

(4) All other crimes are misdemeanors.

Sec. 2. On and after January 2, 2010, K.S.A. 21-4009 is hereby amended to read as follows: 21-4009. As used in this act K.S.A. 21-4009 through 21-4014, and amendments thereto:

(a) "Access point" means the area within a ten foot radius outside of any doorway, open window or air intake leading into a building or facility that is not exempted pursuant to subsection (d) of K.S.A. 21-4010, and amendments thereto.

 $\frac{a}{b}$ (b) "Bar" means any indoor area that is operated and licensed for the sale and service of alcoholic beverages, including alcoholic liquor as defined in K.S.A. 41-102, and amend-

ments thereto, or cereal malt beverages as defined in K.S.A. 41-2701, and amendments thereto, for on-premises consumption.

(c) "Émployee" means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers their services for a nonprofit entity.

(d) "Employer" means any person, partnership, corporation, association or organization, including municipal or nonprofit entities, which employs one or more individual persons.

(e) "Enclosed area" means all space between a floor and ceiling which is enclosed on all sides by solid walls, windows or doorways which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid or similar structures. For purposes of this section, the following shall not be considered an "enclosed area": (1) Rooms or areas, enclosed by walls, windows or doorways, having neither a ceiling nor a roof and which are completely open to the elements and weather at all times; and (2) rooms or areas, enclosed by walls, fences, windows or doorways and a roof or ceiling, having openings that are permanently open to the elements and weather and which comprise an area that is at least 30% of the total perimeter wall area of such room or area.

(f) "Food service establishment" means any place in which food is served or is prepared for sale or service on the premises. Such term shall include, but not be limited to, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich shops, soda fountains, taverns, private clubs, roadside kitchens, commissaries and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

(g) "Gaming floor" means the area of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto, where patrons engage in Class III gaming. The gaming floor shall not include any areas used for accounting, maintenance, surveillance, security, administrative offices, storage, cash or cash counting, records, food service, lodging or entertainment, except that the gaming floor may include a bar where alcoholic beverages are served so long as the bar is located entirely within the area where Class III gaming is conducted.

(h) "Medical care facility" means a physician's office, general hospital, special hospital, ambulatory surgery center or recuperation center, as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto.

(i) "Place of employment" means any enclosed area under the control of a public or private employer, including, but not limited to, work areas, auditoriums, elevators, private offices, employee lounges and restrooms, conference and meeting rooms, classrooms, employee cafeterias, stairwells and hallways, that is used by employees during the course of employment. For purposes of this section, a private residence shall not be considered a "place of employment" unless such residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto.

(j) "Public building" means any building owned or operated by: (1) The state, including any branch, department, agency, bureau, commission, authority or other instrumentality thereof; (2) any county, city, township, other political subdivision, including any commission, authority, agency or instrumentality thereof; or (3) any other separate corporate instrumentality or unit of the state or any municipality.

(k) "Public meeting" means any meeting open to the public pursuant to K.S.A. 75-4317 et seq., and amendments thereto, or any other law of this state.

(*l*) "Public place" means *any* enclosed indoor areas open to the public or used by the general public including, but not limited to: Restaurants Banks, bars, food service establishments, retail service establishments, retail stores, public means of mass transportation, passenger elevators, health care institutions or any other place where health care services are provided to the public, medical care facilities, educational facilities, libraries, courtrooms, state, county or municipal public buildings, restrooms, grocery stores, school buses, museums, theaters, auditoriums, arenas and recreational facilities. For purposes of this section, a

private residence shall not be considered a "public place" unless such residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto.

(b) "Public meeting" includes all meetings open to the public.

- (c) (m) "Smoking" means possession of a lighted cigarette, cigar, pipe or any other lighted smoking equipment burning tobacco in any other form or device designed for the use of tobacco.

(n) "Tobacco shop" means any indoor area operated primarily for the retail sale of tobacco, tobacco products or smoking devices or accessories, and which derives not less than 65% of its gross receipts from the sale of tobacco.

Sec. 3. On and after January 2, 2010, K.S.A. 21-4010 is hereby amended to read as follows: 21-4010. (a) No person shall smoke in a public place an enclosed area or at a public meeting except in designated smoking areas. including, but not limited to:

(1) Public places;

(2) taxicabs and limousines;

(3) restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-residential facilities;

(4) restrooms, lobbies and other common areas in hotels and motels and in at least 80% of the sleeping quarters within a hotel or motel that may be rented to guests;

(5) access points of all buildings and facilities not exempted pursuant to subsection (d); and

(6) any place of employment.

(b) Smoking areas may be designated by proprietors or other persons in charge of public places, except in passenger elevators, school buses, public means of mass transportation and any other place in which smoking is prohibited by the fire marshal or by other law, ordinance or regulation.

(c) Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas.

(b) Each employer having a place of employment that is an enclosed area shall provide a smoke-free workplace for all employees. Such employer shall also adopt and maintain a written smoking policy which shall prohibit smoking without exception in all areas of the place of employment. Such policy shall be communicated to all current employees within one week of its adoption and shall be communicated to all new employees upon hiring. Each employer shall provide a written copy of the smoking policy upon request to any current or prospective employee.

(c) Notwithstanding any other provision of this section, K.S.A. 21-4011 or 21-4012, and amendments thereto, the proprietor or other person in charge of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a medical care facility, may designate a portion of such adult care home, or the licensed long-term care unit of such medical care facility, as a smoking area, and smoking may be permitted within such designated smoking area.

(d) The provisions of this section shall not apply to:

(1) The outdoor areas of any building or facility beyond the access points of such building or facility;

(2) private homes or residences, except when such home or residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto;

(3) a hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed 20%;

(4) the gaming floor of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto;

(5) that portion of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, that is expressly designated as a smoking area by the proprietor or other person in charge of such adult care home pursuant to subsection (c) and that is fully enclosed and ventilated;

(6) that portion of a licensed long-term care unit of a medical care facility that is expressly designated as a smoking area by the proprietor or other person in charge of such medical care facility pursuant to subsection (c) and that is fully enclosed and ventilated and to which access is restricted to the residents and their guests;

(7) tobacco shops; and

(8) a class A or class B club defined in K.S.A. 41-2601, and amendments thereto, which (A) held a license pursuant to K.S.A. 41-2606 et seq., and amendments thereto, as of January 1, 2009; and (B) notifies the secretary of health and environment in writing, not later than 90 days after the effective date of this act, that it wishes to continue to allow smoking on its premises.

Sec. 4. On and after January 2, 2010, K.S.A. 21-4011 is hereby amended to read as follows: 21-4011. The proprietor or other person in charge of the premises of a public place, *or other area where smoking is prohibited*, shall post or cause to be posted in a conspicuous place signs *displaying the international no smoking symbol and* clearly stating that smoking is prohibited by state law. The person in charge of the premises shall also post or cause to be posted in any designated smoking area, signs stating that smoking is permitted in such room or area. The proprietor or person in charge of the public place shall have the authority to establish the percentage of area in the public place which shall be posted and designated as a smoking area.

Sec. 5. On and after January 2, 2010, K.S.A. 21-4012 is hereby amended to read as follows: 21-4012. Any person found guilty of smoking in violation of this act is guilty of a misdemeanor punishable by a fine of not more than \$20 for each violation. Any person found guilty of failing to post signs as required by this act, is guilty of a misdemeanor punishable by a fine of not more than \$20. In addition, the department of health and environment, or local department of health, may institute an action in any court of competent jurisdiction to enjoin repeated violations of this act. (a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to fail to comply with all or any of the provisions of K.S.A. 21-4009 through 21-4014, and amendments thereto.

(b) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to allow smoking to occur where prohibited by law. Any such person shall be deemed to allow smoking to occur under this subsection if such person: (1) Has knowledge that smoking is occurring; and (2) acquiesces to the smoking under the totality of the circumstances.

(c) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of K.S.A. 21-4010, and amendments thereto.

(d) Any person who violates any provision of K.S.A. 21-4009 through 21-4014, and amendments thereto, shall be guilty of a cigarette or tobacco infraction punishable by a fine:

(1) Not exceeding \$100 for the first violation;

(2) not exceeding \$200 for a second violation within a one year period after the first violation; or

(3) not exceeding \$500 for a third or subsequent violation within a one year period after the first violation.

For purposes of this subsection, the number of violations within a year shall be measured by the date the smoking violations occur.

(e) Each individual allowed to smoke by a person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, in violation of subsection (b) shall be considered a separate violation for purposes of determining the number of violations under subsection (d).

(f) No employer shall discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment or customer because that employee, applicant or customer reports or attempts to prosecute a violation of any of the provisions of K.S.A. 21-4009 through 21-4014, and amendments thereto.

Sec. 6. On and after January 2, 2010, K.S.A. 65-530 is hereby amended to read as follows: 65-530. (a) As used in this section:

(1) "Day care home" means a day care home as defined under Kansas administrative regulation 28-4-113, a group day care home as defined under Kansas administrative regulation 28-4-113 and a family day care home as defined under K.S.A. 65-517 and amendments thereto.

(2) "Smoking" means possession of a lighted cigarette, cigar, pipe or burning tobacco in any other form or device designed for the use of tobacco.

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(b) Smoking within any room, enclosed area or other enclosed space of a facility or facilities of a day care home during a time when children who are not related by blood, marriage or legal adoption to the person who maintains the home are being cared for, as part of the operation of the day care home, within the facility or facilities is hereby prohibited. Nothing in this subsection shall be construed to prohibit smoking on the premises of the day care home outside the facility or facilities of a day care home, including but not limited to porches, yards or garages.

(c) Each day care home registration certificate or license shall contain a statement in bold print that smoking is prohibited within a room, enclosed area or other enclosed space of the facility or facilities of the day care home under the conditions specified in subsection (b). The statement shall be phrased in substantially the same language as subsection (b). The registration certificate or license shall be posted in a conspicuous place in the facility or facilities.

(d) The secretary of health and environment may levy a civil fine under K.S.A. 65-526 and amendments thereto against any day care home for a first or second violation of this section. A third or subsequent violation shall be subject to the provisions of K.S.A. 65-523 and amendments thereto.

(e) In addition to any civil fine which may be levied pursuant to subsection (d), any day care home that violates any provision of this section may also be subject to criminal punishment pursuant to K.S.A. 21-4012, and amendments thereto.

New Sec. 7. On and after January 2, 2010, the amendments made to K.S.A. 21-4009 through 21-4012, and amendments thereto, and K.S.A. 21-4013 and 21-4014, and amendments thereto, shall constitute the Kansas indoor clean air act.

Sec. 8. K.S.A. 2008 Supp. 79-3301 is hereby amended to read as follows: 79-3301. As used in this act K.S.A. 79-3301 et seq., and amendments thereto:

(a) "Carrier" means one who transports cigarettes from a manufacturer to a wholesale dealer or from one wholesale dealer to another.

(b) "Carton" means the container used by the manufacturer of cigarettes in which no more than 10 packages of cigarettes are placed prior to shipment from such manufacturer.

(c) "Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.

(d) "Consumer" means the person purchasing or receiving cigarettes or tobacco products for final use.

(e) "Dealer" means any person who engages in the sale or manufacture of cigarettes in the state of Kansas, and who is required to be licensed under the provisions of this act.

(f) "Dealer establishment" means any location or premises, other than vending machine locations, at or from which cigarettes are sold, and where records are kept.

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

(h) "Distributor" means: (1) Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without *outside* the state any tobacco products for sale;

(2) any person who makes, manufactures, fabricates or stores tobacco products in this state for sale in this state; or

(3) any person engaged in the business of selling tobacco products without *outside* this state who ships or transports tobacco products to any person in the business of selling tobacco products in this state.

(i) "Division" means the division of taxation.

(j) "License" means, in addition to the privilege of a licensee to sell cigarettes or tobacco products in the state of Kansas, *and* the written evidence of such authority or privilege to so operate as evidenced by any license *as* issued by the director of taxation.

(k) "Licensee" means any person holding a current license issued pursuant to this act.

(1) "Manufacturer's salesperson" means a person employed by a cigarette manufacturer who sells cigarettes, manufactured by such employer and procured from wholesale dealers.

(m) "Meter imprints" means tax indicia applied by means of ink printing machines.

(n) (1) "Package" means a container in which no more than 25 individual cigarettes are wrapped and sealed by the manufacturer of cigarettes prior to shipment to a wholesale dealer;

(2) for the purposes of subsections (u), (v) and (w) of K.S.A. 79-3321, and amendments thereto, "package" shall have the meaning ascribed thereto means the same as provided in 15 U.S.C. 1332(4).

(o) "Person" means any individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity whether appointed by a court or otherwise and any combination of individuals.

(p) "Received" means the coming to rest of cigarettes for sale by any dealer in the state of Kansas.

 $\rm (q)$ "Retail dealer" means a person, other than a vending machine operator, in possession of cigarettes for the purpose of sale to a consumer.

(r) "Sale" means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes or tobacco products, with or without consideration.

(s) "Sample" means cigarettes or tobacco products distributed to members of the general public at no cost for purposes of promoting the product.

(t) "Self-service display" means a display that contains cigarettes or tobacco products and is located in an area openly accessible to a retail dealer's consumers, and from which such consumers can readily access cigarettes or tobacco products without the assistance of a salesperson. A display case that holds cigarettes or tobacco products behind locked doors does not constitute a self-service display.

 (\boldsymbol{u}) "Stamps" means tax indicia applied either by means of water applied gummed paper or heat process.

 $(\mathbf{u})(v)$ "Tax indicia" means visible evidence of tax payment in the form of stamps or meter imprints.

 $\overline{\langle \mathbf{v} \rangle}(w)$ "Tobacco products" means cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products does do not include cigarettes.

(x) "Tobacco speciality store" means a dealer establishment that derives at least 75% of such dealer establishment's revenue from cigarettes or tobacco products.

(w) (y) "Vending machine" means any coin operated machine, contrivance or device, by means of which merchandise may be sold.

 $\langle \mathbf{x} \rangle$ (z) "Vending machine distributor" means any person who sells cigarette vending machines to a vending machine operator operating vending machines in the state of Kansas.

 $\langle \mathbf{y} \rangle$ (*aa*) "Vending machine operator" means any person who places a vending machine, owned, leased or operated by such person, at locations where cigarettes are sold from the such vending machine. The owner or lessee of the premises upon which a vending machine is placed shall not be considered the operator of the machine, nor shall the owner or lessee, or any employee or agent of the owner or lessee be considered an authorized agent of the vending machine operator, if the owner or lessee does not own or lease the machine and the owner's or lessee's sole remuneration from the machine is a flat rental fee or commission based upon the number or value of cigarettes sold from the machine, or a combination of both.

 $\frac{\langle z \rangle}{(bb)}$ "Wholesale dealer" means any person who sells cigarettes to other wholesale dealers, retail dealers, vending machine operators and manufacturer's salespersons for the purpose of resale in the state of Kansas.

 $\frac{(aa)}{(cc)}$ "Wholesale sales price" means the original net invoice price for which *a* manufacturer sells a tobacco product to a distributor, as shown by the manufacturer's original invoice.

 $\frac{\text{(bb)}}{\text{(dd)}}$ "Importer" shall have the same meaning ascribed thereto means the same as provided in 26 U.S.C. 5702(1).

(cc) (ee) "Manufacturer" shall have the same meaning ascribed thereto means the same as provided in 26 U.S.C. §5702(d).

Sec. 9. K.S.A. 2008 Supp. 79-3321 is hereby amended to read as follows: 79-3321. It shall be unlawful for any person:

(a) To possess, except as otherwise specifically provided by this act, more than 200 cigarettes without the required tax indicia being affixed as herein provided.

(b) To mutilate or attach to any individual package of cigarettes any stamp that has in any manner been mutilated or that has been heretofore attached to a different individual package of cigarettes or to have in possession any stamps so mutilated.

(c) To prevent the director or any officer or agent authorized by law, to make a full inspection for the purpose of this act, of any place of business and all premises connected thereto where cigarettes are or may be manufactured, sold, distributed, or given away.

(d) To use any artful device or deceptive practice to conceal any violation of this act or to mislead the director or officer or agent authorized by law in the enforcement of this act.

(e) Who is a dealer to fail to produce on demand of the director or any officer or agent authorized by law any records or invoices required to be kept by such person.

(f) Knowingly to make, use, or present to the director or agent thereof any falsified invoice or falsely state the nature or quantity of the goods therein invoiced.

(g) Who is a dealer to fail or refuse to keep and preserve for the time and in the manner required herein by this act all the records required by this act to be kept and preserved.

(h) To wholesale cigarettes to any person, other than a manufacturer's salesperson, retail dealer or wholesaler who is:

(1) Duly licensed by the state where such manufacturer's sales person, retail dealer or wholesaler is located; or

(2) exempt from state licensing under applicable state or federal laws or court decisions including any such person operating as a retail dealer upon land allotted to or held in trust for an Indian tribe recognized by the United States bureau of Indian affairs.

(i) To have in possession any evidence of tax indicia provided for herein not purchased from the director.

(j) To fail or refuse to permit the director or any officer or agent authorized by law to inspect a carrier transporting cigarettes.

(k) To vend small cigars, or any products so wrapped as to be confused with cigarettes, from a machine vending cigarettes, nor shall a vending machine be so built to vend cigars or products that may be confused with cigarettes, be attached to a cigarette vending machine.

(l) To sell, furnish or distribute cigarettes or tobacco products to any person under 18 years of age.

(m) Who is under 18 years of age to purchase or attempt to purchase cigarettes or tobacco products.

(n) Who is under 18 years of age to possess or attempt to possess cigarettes or tobacco products.

(o) To sell cigarettes to a retailer or at retail that do not bear Kansas tax indicia or upon which the Kansas cigarette tax has not been paid.

(p) To sell cigarettes without having a license for such sale as provided herein.

(q) To sell a vending machine without having a vending machine distributor's license.

(r) Who is a retail dealer to fail to post and maintain in a conspicuous place in the dealer's establishment the following notice: "By law, cigarettes and tobacco products may be sold only to persons 18 years of age and older."

(s) To distribute samples within 500 feet of any school when such facility is being used primarily by persons under 18 years of age unless the sampling is: (1) In an area to which persons under 18 years of age are denied access;

(2) in or at a retail location where cigarettes and tobacco products are the primary commodity offered for sale at retail; or

(3) at or adjacent to an outdoor production, repair or construction site or facility.

(t) To sell cigarettes or tobacco products by means of a vending machine in any establishment, or portion of an establishment, which is open to minors, except that this subsection shall not apply to: (1) The installation and use by the proprietor of the establishment, or by the proprietor's agents or employees, of vending machines behind a counter, or in some place in such establishment, or portion thereof, to which minors are prohibited by law from having access;

(2) the installation and use of a vending machine in a commercial building or industrial plant, or portions thereof, where the public is not customarily admitted and where machines are intended for the sole use of adult employees employed in the building or plant; or

(3) a vending machine which has a lock-out device which is inoperable in the continuous standby mode and which requires manual activation by the person supervising the operation of the machine each time cigarettes or tobacco products are purchased from the machine.

(u) To sell cigarettes or tobacco products by means of a self-service display in any establishment, except that the provisions of this subsection shall not apply to:

(1) A vending machine that is permitted under subsection (t); or

(2) a self-service display that is located in a tobacco specialty store.

(v) To sell or distribute in this state; to acquire, hold, own, possess or transport for sale or distribution in this state; or to import or cause to be imported, into this state for sale or distribution in this state:

(1) Any cigarettes the package of which (A) bears any statement, label, stamp, sticker or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed or used in the United States, including but not limited to, labels stating "For Export Only", "U.S. Tax-Exempt", "For Use Outside U.S." or similar wording; or (B) does not comply with (i) all requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged or imported for sale, distribution or use in the United States, including but not limited to the precise warning labels specified in the federal cigarette labeling and advertising act, 15 U.S.C. 1333; and (ii) all federal trademark and copyright laws;

(2) any cigarettes imported into the United States in violation of 26 U.S.C. 5754 or any other federal law, or federal regulations implementing such laws;

(3) any cigarettes that such person otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed or used in the United States; or

(4) any cigarettes for which there has not been submitted to the secretary of the U.S. department of health and human services the list or lists of the ingredients added to tobacco in the manufacture of such cigarettes required by the federal cigarette labeling and advertising act, 15 U.S.C. 1335a.

 $\langle \mathbf{v} \rangle$ (w) To alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure:

(1) Any statement, label, stamp, sticker or notice described in subsection (u) of K.S.A. 79-3321, and amendments thereto (v); or

(2) any health warning that is not specified in, or does not conform with, the requirements of, the federal cigarette labeling and advertising act, 15 U.S.C. 1333.

 $\langle \mathbf{w} \rangle$ (x) To affix any stamp required pursuant to K.S.A. 79-3311, and amendments thereto, to the package of any cigarettes described in subsection $\langle \mathbf{w} \rangle$ (v) or altered in violation of subsection $\langle \mathbf{w} \rangle$ (w).

Sec. 10. K.S.A. 2008 Supp. 79-3301 and 79-3321 are hereby repealed.

Sec. 11. On January 2, 2010, K.S.A. 21-3105, 21-4009, 21-4010, 21-4011, 21-4012, 21-4016, 21-4017 and 65-530 are hereby repealed.";

And by renumbering the remaining section accordingly;

In the title, by striking all in lines 10 through 11 and inserting the following:

AN ACT concerning crimes and punishments; relating to smoking and cigarette sales; amending K.S.A. 21-3105, 21-4009, 21-4010, 21-4011, 21-4012 and 65-530 and K.S.A. 2008 Supp. 79-3301 and 79-3321 and repealing the existing sections; also repealing K.S.A. 21-4016 and 21-4017.";

And the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Teichman the following report was adopted:

Recommended: SB 255, SB 269, SB 274, SB 299, SB 302, SB 307; HB 2236, HB 2297, HB 2311 be passed.

SB 205, SB 285, SB 310 be amended by adoption of the committee amendments, and the bills be passed as amended.

SR 1851 be adopted.

SB 75 be amended by adoption of the committee amendments, be further amendedby motion of Senator Hensley, on page 2, line 7, by striking the period, and inserting in lieu thereof, "unless a greater representation of residents of the unincorporated area is specified by the resolution.", and **SB 75** be passed as further amended.

HB 2001 be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a 2/3 constitutional majority, and SB 75, SB 205, SB 255, SB 269, SB 274, SB 285, SB 299, SB 302, SB 307, SB 310; SR 1851; HB 2236, HB 2297, HB 2311 were advanced to Final Action and roll call.

SB 75, An act concerning governmental consolidation and reorganization; amending K.S.A. 12-3901, 12-3902, 12-3903, 12-3904, 12-3909 and 19-205 and repealing the existing sections.

On roll call, the vote was: Yeas 27, Nays 11, Present and Passing 2, Absent or Not Voting 0.

Yeas: Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Kelly, Kelsey, Kultala, Lynn, Marshall, Masterson, Morris, Owens, Petersen, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Apple, Barnett, Holland, Huelskamp, Lee, Ostmeyer, Pilcher-Cook, Pyle, Schmidt D, Taddiken.

Present and Passing: Haley, McGinn.

The bill passed, as amended.

SB 205, An act concerning the development finance authority; relating to the refunding of bonds; amending K.S.A.2008 Supp. 74-8905 and repealing the existing section.

On roll call, the vote was: Yeas 31, Nays 9, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, Ostmeyer, Steineger. The bill passed, as amended.

SB 255, An act concerning property taxation; relating to statewide levy for public schools; exemption therefrom, residential property; amending K.S.A. 2008 Supp. 72-6431 and 79-201x and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 269, An act concerning civil procedure; relating to covered offenses and conduct giving rise to forfeiture; amending K.S.A. 2008 Supp. 60-4104 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 274, An act establishing the Kansas scenic and heritage backroads act.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 285, An act concerning the Kansas universal service fund; relating to KAN-ED funding; amending K.S.A. 2008Supp. 66-2010 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Petersen, Pyle.

The bill passed, as amended.

SB 299, An act concerning the department of health and environment; relating to rules and regulations for underground hydrocarbon storage wells; amending K.S.A. 55-1,117 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 302, An act concerning transportation; relating to intermodal transportation projects, and providing for the financing thereof.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Pilcher-Cook, Pyle.

Present and Passing: Francisco.

The bill passed.

SB 307, An act concerning aboveground storage tanks; duties of the state fire marshal; amending K.S.A. 2008 Supp. 65-34,136 and repealing the existing section.

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

MARCH 19, 2009

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 310, An act concerning sexually violent predators; relating to placement into the community; amending K.S.A. 2008 Supp. 59-29a11 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SR 1851, A resolution urging review, modification and reorganization of laws pertaining to the maintenance and availability of health information.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The resolution was adopted

HB 2236, An act relating to crimes, criminal procedure and punishments; concerning drug crimes; recodification of certain statutes; amending K.S.A. 12-4419, 12-4509, 21-2501, 21-3436, 21-3608a, 21-3718, 21-3826, 21-4203, 21-4204, 21-4226, 21-4502, 21-4603d, 21-4708, 21-4713, 21-4717, 21-4729, 22-2512, 22-2515, 22-2909, 22-3901, 36-601, 36-604, 60-427, 65-4102, 65-4127c, 65-4139 and 79-5201 and K.S.A. 2008 Supp. 8-2,128, 8-1567, 12-4104, 21-4704, 21-4705, 21-4714, 22-4902, 38-2255, 44-706, 59-2132, 59-29b46, 60-4104, 65-516, 72-1397, 72-5445, 72-89c01, 75-7c04, 75-52,144 and 76-11a13 and repealing the existing sections; also repealing K.S.A. 21-4214, 21-4215, 65-4105a, 65-4127d, 65-4141, 65-4142, 65-4155, 65-4158, 65-4164 and 65-4165 and K.S.A. 2008 Supp. 65-4150, 65-4151, 65-4152, 65-4153, 65-4159a, 65-4159a, 65-4161, 65-41612, 65-4163, 65-4166, 65-4168, 65-4168 and 65-7006.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2297, An act concerning geriatric medicine; relating to approved postgraduate residency training program for the university of Kansas school of medicine and the doctor of osteopathy medical student loan programs; amending K.S.A. 2008 Supp. 74-3266 and 76-381 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2311, An act concerning service of process; relating to private detectives; amending K.S.A. 60-303 and 61-3003 and repealing the existing sections; also repealing K.S.A. 61-3003a.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, March 20, 2009.

Journal of the Senate

FORTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Friday, March 20, 2009—8:00 a.m.

The Senate was called to order by Vice President John Vratil. The roll was called with twenty-eight senators present. Senators Barnett, Brownlee, Brungardt, Colyer, Haley, Holland, Kelsey, Masterson, Pyle, Steineger, Wagle and Wysong were excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Continuing a prayer I prayed a week ago— Praying for the Senators Whom I think I know.

I continue to hear folks say (What drives me up the wall) "They're all crooks anyway" With emphasis on the "all".

Of course that's far from true, And it says a whole lot more About the character of the critics Than the Senators they deplore.

Except for maybe lawyers, There a lot more jokes About the "politicians" Than any other folks.

Good humor is refreshing But these critics have no clue About Senators' responsibilities, And all else they have to do.

There is more to pray about, But I limit what I say To little more than a minute So they can start their day.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated: Ways and Means: **SB 329**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **SB 11** and requested a conference committee be appointed.

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

On motion of Senator V. Schmidt the Senate nonconcurred in the House amendments to **SB 80** and requested a conference committee be appointed.

The Vice President appointed Senators V. Schmidt, Apple and Faust-Goudeau as a conference committee on the part of the Senate.

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **SB 131** and requested a conference committee be appointed.

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

On motion of Senator Umbarger the Senate nonconcurred in the House amendments to **H Sub for SB 145** and requested a conference committee be appointed.

The Vice President appointed Senators Umbarger, Marshall and Kultala as a conference committee on the part of the Senate.

On motion of Senator V. Schmidt the Senate nonconcurred in the House amendments to **SB 171** and requested a conference committee be appointed.

The Vice President appointed Senators V. Schmidt, Apple and Faust-Goudeau as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Teichman, the Senate acceded to the request of the House for a conference on **HB 2052.**

The Vice President appointed Senators Teichman, Brownlee and Steineger as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Ostmeyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1853-

A RESOLUTION congratulating the Greeley County Scholars' Bowl Team.

WHEREAS, The Greeley County High School Scholars' Bowl Team won the 1A State Championship Tournament on February 14, 2009; and

WHEREAS, The team members are Brian Hampel, Kevin Slattery, A.J. Ellis, Mason Gentry, Desiree Vogt and Taylor Harris; and

WHEREAS, Coach Mark Larkin helped provide this team with the direction and preparation necessary for this championship; and

WHEREAS, The team went 11-1 at the State Tournament for a record of 81-7 on the season; and

WHEREAS, Greeley County outscored its opponents at the State Tournament 725 points to 375 and outscored its opponents over the course of the season 6,450 points to 3,310; and

WHEREAS, The success enjoyed by the Greeley County Scholars' Bowl Team is a tribute to the hard work and dedication the team members have demonstrated throughout the year: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Greeley County High School Scholars' Bowl Team for winning the 1A State Championship and wish all the team future success; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Ralph Ostmeyer.

On emergency motion of Senator Ostmeyer SR 1853 was adopted unanimously.

Senator Ostmeyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1854-

A RESOLUTION congratulating and commending the Rawlins County High School girls track team.

WHEREAS, The Rawlins County High School Lady Buffs track team won the 2008 2A Track State Championship; and

WHEREAS, After winning the 1A State Championship in 2007, the Lady Buffs moved up to 2A, but were still able to repeat as State Champions; and

WHEREAS, This accomplishment is all the more impressive since the team consists of only three students; and

WHEREAS, The three team members are seniors Macy Migchelbrink, Sara Miller and Laura Wolters; and

WHEREAS, Macy Migchelbrink won gold medals in the long jump and the 300 meter low hurdles and captured silver medals in the triple jump and 100 meter high hurdles; and

WHEREAS, Sara Miller won a gold medal in the discus and placed fifth in the shot put; and

WHEREAS, Laura Wolters captured silver medals in both the 800 meter and 1600 meter, setting a new school record for the mile; and

WHEREAS, Repeating as State Champions with only three team members is indicative of the outstanding dedication and ability of the Lady Buffs: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Rawlins County High School girls track team for winning the 2008 2A Track State Championship and that we wish them well in the future; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Ralph Ostmeyer.

On emergency motion of Senator Ostmeyer SR 1854 was adopted unanimously.

Senator Ostmeyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1855-

A RESOLUTION congratulating and commending the Colby High School girls tennis doubles state champions.

WHEREAS, The doubles team of Senior Lindsey Wilson and Sophomore Caitlyn Wark from Colby High School won the 4A Tennis Doubles State Championship Tournament; and

WHEREAS, The duo outlasted the team from St. James Academy in a three set match, winning 2-6, 7-6 and 6-4; and

WHEREAS, The determination and fortitude displayed by Lindsey and Caitlyn when they lost the first game of each set in the championship match is what made them champions: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Lindsey Wilson and Caitlyn Wark for winning the 4A Tennis Doubles State Championship and that we wish them future success; and

Be it further resolved: That the Secretary of the Senate be directed to provide two enrolled copies of this resolution to Senator Ralph Ostmeyer.

On emergency motion of Senator Ostmeyer SR 1855 was adopted unanimously.

REPORT ON ENGROSSED BILLS

SB 75, SB 205, SB 285, SB 310 reported correctly engrossed March 20, 2009.

REPORT ON ENROLLED BILLS

SB 5, SB 40, SB 50, SB 86, SB 115, SB 122, SB 123, SB 137, SB 148, SB 156; H Sub for SB 238; SB 240 reported correctly enrolled, properly signed and presented to the Governor on March 20, 2009.

SR 1852 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 20, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Assessment and Taxation recommends SB 312; HB 2172; HB 2324, as amended by House Committee, be passed.

Also, **SB 242** be amended on page 2, in line 10, by striking "16%" and inserting "17%"; also in line 10, by striking "14%" and inserting "16%"; in line 11, by striking "and 12%" and inserting "15%"; in line 12, after "thereafter" by inserting ", except that if the amount provided for transfer to the local ad valorem tax reduction fund pursuant to K.S.A. 79-2959, and amendments thereto, as of July 1, 2009, is transferred during fiscal year 2013, then 14% during calendar year 2015, if the amount provided for transfer to the local ad valorem tax reduction fund pursuant to K.S.A. 79-2959, and amendments thereto, as of July 1, 2009, is transferred during fiscal year 2013, then 14% transferred during fiscal year 2014, then 13% during calendar 2016, and if the amount provided for transfer to the local ad valorem tax reduction fund pursuant to K.S.A. 79-2959, and amendments thereto, as of July 1, 2009, is transferred during fiscal year 2015, then 12% during calendar year 2017, and all calendar years thereafter, and subject to if a transfer is made as provided in this subsection during fiscal years 2013 or 2014 but not in a subsequent fiscal year, then the percent multiplier shall remain at that level for that calendar year and all calendar years thereafter"; in line 38, by striking "25%" and inserting "20%"; in line 40, by striking "50%" and inserting "40%"; in line 43, by striking "75%" and inserting "60%";

On page 3, in line 2, by striking "and" the first time it appears; also in line 2, after "2012," by inserting "such rate shall be computed with regard to 80% of the general property taxes levied by school districts pursuant to K.S.A. 72-6431, and amendments thereto; and (10) as of November 1, 2013,"; and the bill be passed as amended.

HB 2299, as amended by House Committee of the Whole, be amended on page 1, after line 16, by inserting the following:

"Section 1. K.S.A. 2008 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3%. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) the gross receipts from intrastate, interstate or international telecommunications services and any ancillary services sourced to this state in accordance with K.S.A. 2008 Supp. 79-3673, and amendments thereto, except that telecommunications service does not include: (1) Any interstate or international 800 or 900 service; (2) any interstate or international private communications service as defined in K.S.A. 2008 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice data service; (4) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (5) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for all sales of propane gas, LP gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

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(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

 (i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

 $\left(j\right)$ the gross receipts from the rendering of the services of washing and washing and washing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e); *and* (3) *fees and charges for participating in guided and non-guided hunts and fishing expeditions and excursions and hunting or fishing leases*;

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected

upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. Any amount of sales tax paid pursuant to the Kansas retailers sales tax act on the isolated or occasional sale of motor vehicles or trailers on and after July 1, 2004, which the base for computing the tax was the value pursuant to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105, and amendments thereto, when such amount was higher than the amount of sales tax which would have been paid under the law as it existed on June 30, 2004, shall be refunded to the taxpayer pursuant to the procedure prescribed by this section. Such refund shall be in an amount equal to the difference between the amount of sales tax paid by the taxpaver and the amount of sales tax which would have been paid by the taxpaver under the law as it existed on June 30, 2004. Each claim for a sales tax refund shall be verified and submitted not later than six months from the effective date of this act to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of tax paid as provided by this act. All such refunds shall be paid from the sales tax refund fund, upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or the director's designee. No refund for an amount less than \$10 shall be paid pursuant to this act. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building, facility or utility structure damaged or destroyed by fire, flood, tornado, lightning, explosion, windstorm, ice loading and attendant winds, terrorism or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and

amendments thereto, or municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility;

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(5) "utility structure" shall mean transmission and distribution lines owned by an independent transmission company or cooperative, the Kansas electric transmission authority or natural gas or electric public utility; and

(6) "windstorm" shall mean straight line winds of at least 80 miles per hour as determined by a recognized meteorological reporting agency or organization;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

 (\bar{r}) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) on and after January 1, 2005, the gross receipts received from the sale of prewritten computer software and the sale of the services of modifying, altering, updating or maintaining prewritten computer software, whether the prewritten computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services;

(u) the gross receipts received from the sale of prepaid calling service and prepaid wireless calling service as defined in K.S.A. 2008 Supp. 79-3673, and amendments thereto; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq., and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section.";

Also on page 1, in line 17, by striking "Section 1." and inserting "Sec. 2.";

On page 32, in line 31, by striking "and"; in line 41, after "purpose" by inserting ";

(ffff) all sales of game birds for which the primary purpose is use in hunting;

(gggg) all sales of personal property and services purchased by any senior services center, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of enhancing the lives of older citizens to help such citizens to remain independent and active in their homes and communities, and all sales of any such property by such organization for any such purpose; and

(hhhh) all sales of admissions or tickets to annual county fairs held by county fair associations to provide support for the education and encouragement of improvement in agriculture, horticulture, livestock, poultry, dairy products, liberal arts, fine arts, domestic economy and 4-H club activities of citizens of the county";

Also on page 32, in line 42, by striking "2." and inserting "3."; also in line 42, after "Supp." by inserting "79-3603 and"; also in line 43, by striking "is" and inserting "are";

On page 33, in line 1, by striking "3." and inserting "4.";

On page 1, in the title, in line 12, by striking all after the second semicolon; in line 13, by striking all before "amending"; in line 14, after "Supp." by inserting "79-3603 and"; also in line 14, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Commerce** recommends **SB 324** be amended on page 3, after line 17, by inserting the following:

"Sec. 2. K.S.A. 2008 Supp. 74-99e03 is hereby amended to read as follows: 74-99e03. (a) The Kansas commission on rural policy shall develop recommendations for communitybased programming and funding in the following key areas: Fostering leadership; encouraging wealth retention and generation; developing entrepreneurship through the coordination of existing programs; and retaining youth in rural communities. The commission shall not compete with, duplicate or assume the responsibilities or functions of existing federal or state funded programs and organizations, in delivering services related to the above key areas, but will design, collaborate with and optimize the activities of such other agencies in a comprehensive effort.

(b) Prior to July 1, 2009 2010, the commission shall perform the following:

(1) Develop a comprehensive plan for fulfillment of the commission's duties, including an evaluation of the current efforts being utilized to fulfill the commission's objectives, and report on the best practices currently being conducted and on the commission's activities to the legislature during the $\frac{2009}{2010}$ legislative session;

(2) develop partnerships with other organizations to offer technical assistance to rural communities seeking programming assistance; and

(3) develop partnerships with private organizations and institutions engaged in rural development strategies to identify best practices and make those resources available to rural communities through a centralized point of contact.

(c) In addition to the duties set forth in subsection (b), the commission, once appointed and confirmed, shall perform the following:

(1) Develop on-the-ground resources for rural communities utilizing existing resources and partnerships or by developing new efforts and strategies;

(2) act in concert with contracting organizations to develop fundamental capacity building resources to assist communities in achieving growth using the key areas set forth in subsection (a);

(3) review rural development programs in other state agencies and provide strategic recommendations to such agencies;

(4) serve as a convener of organizations engaged in activities focused on the key areas set forth in subsection (a) to develop unified recommendations for rural development efforts across the state;

(5) develop and recommend to the secretary of commerce a strategic mission for the office of rural opportunity;

(6) report annually to the legislature with each annual report to include a report on the activities of the commission, recommendations by the commission and suggestions for legislation.";

And by renumbering the remaining sections accordingly;

Also on page 3, in line 21, after "74-99e02" by inserting ",74-99e03";

In the title, in line 10, after "74-99e02" by inserting ", 74-99e03"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2250**, as amended by House Committee, be amended on page 1, in line 20, by striking "but, subject" and inserting a period; after line 20, by inserting the following:

"(b) Subject";

Also on page 1, after line 24, by inserting the following:

"(c) Subject to K.S.A. 60-445 and 60-448, and amendments thereto, in any criminal action other than a criminal action in which the defendant is accused of a sex offense under articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, such evidence is admissible to show the modus operandi or general method used by a defendant to perpetrate similar but totally unrelated crimes when the method of committing the prior acts is so similar to that utilized in the current case before the court that it is reasonable to conclude the same individual committed both acts.";

And by relettering the remaining subsections accordingly;

Also on page 1, in line 31, after "relevant" by inserting "and probative";

On page 2, after line 32, by inserting the following:

"(h) If any provision of this section or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provisions or application. To this end the provisions of this section are severable.";

and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2162**, as amended by House Committee; **HB 2343**, **HB 2359** be passed.

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Committee on **Utilities** recommends **HB 2115** be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2115," as follows:

"SENATE Substitute for HOUSE BILL No. 2115 By Committee on Utilities

"AN ACT concerning utilities; relating to the underground utility damage prevention act; concerning interference with an emergency call; amending K.S.A. 66-1802, 66-1804, 66-1805 and 66-1806 and repealing the existing sections; also repealing K.S.A. 21-4211, 66-1802, as amended by section 5 of chapter 122 of the 2008 Session Laws of Kansas, 66-1805, as amended by section 6 of chapter 122 of the 2008 Session Laws of Kansas, 66-1806, as amended by section 7 of chapter 122 of the 2008 Session Laws of Kansas, 66-1806, as amended by section 8 of chapter 122 of the 2008 Session Laws of Kansas, section 9 of chapter 122 of the 2008 Session Laws of Kansas, section 9 of chapter 122 of the 2008 Session Laws of Kansas, section 9 of chapter 122 of the 2008 Session Laws of Kansas, 36 Chapter 122 Of the 2008 Session Laws of Kansas, 36 Chapter 122 Of the 2008 Session Laws of Kansas, 36 Chapter 122 Of Chapter 122 Of the 2008 Sesion Laws of Kansas, 36 Chapter 122 Of Chapter 1

and the substitute bill be passed.

Also, **HB 2126**, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2126," as follows:

"SENATE Substitute for HOUSE BILL No. 2126

By Committee on Utilities

"AN ACT concerning telecommunications; relating to providing caller location in emergency situations; concerning telecommunications; relating to enhanced wireless 911 service; concerning certain fees and disposition thereof; relating to audits of certain systems; establishing the joint committee on enhanced and next generation 911; definitions; amending K.S.A. 2008 Supp. 12-5322, 12-5323, 12-5334, 12-5338 and 12-5361 and repealing the existing sections.";

and the substitute bill be passed.

Committee on **Ways and Means** recommends **HB 2354** be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2354," as follows:

"SENATE Substitute for HOUSE BILL No. 2354

By Committee on Ways and Means

"AN ACT making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012 and June 30, 2013, and June 30, 2014, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending section 95 of 2009 House Substitute for Substitute for Senate Bill No. 23 and K.S.A. 2008 Supp. 2-223, 12-5256, 55-193, 75-6702, 76-7,107, 79-2959, 79-2964, 79-2978, as amended by section 88 of 2009 House Substitute for Substitute for Substitute for Senate Bill No. 23, 79-2979, as amended by section 89 of 2009 House Substitute for Substitute for Substitute for Senate Bill No. 23, 79-3425i, 79-4801 and 82a-953a and repealing the existing sections.";

and the substitute bill be passed.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Monday, March 23, 2009.

Journal of the Senate

FORTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Monday, March 23, 2009—10:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

While the economy is getting worse And the Dow Jones has been falling, Way out in South West Kansas The rain has NOT been falling.

Some parts have seen no helpful rain Since summer of two thousand eight. Farms and ranches need some moisture Before it is too late.

Elijah prayed and saw the rain For forty months to stop. Then Elijah prayed for rain And the ground produced its crop.

My name is not Elijah, But I do believe in prayer; So I pray that rain will fall Where needed everywhere.

For one reason or another It may not be Your will, But if it is, I pray My prayer You will fulfill.

Thanking You in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following resolution was introduced and read by title:

SENATE CONCURRENT RESOLUTION No. 1617-

By Senators Kelsey and McGinn, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, Lynn, Marshall, Masterson, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle and Wysong A CONCURRENT RESOLUTION recognizing the Kansas department of transportation, the Oklahoma department of transportation, the Texas department of transportation and Amtrak for their work in preparing an Amtrak, Kansas City-Wichita-Oklahoma City-Fort Worth Passenger Rail Feasibility Report and Study Scope and urging the Kansas department of transportation to apply for federal funding.

WHEREAS, The State of Kansas appropriated \$200,000 in 2008 for a National Railroad Passenger Corporation (hereafter referenced as Amtrak) passenger rail feasibility study; and WHEREAS, Amtrak began work on the feasibility study in December 2008; and

WHEREAS, Kansas is developing its 10-year comprehensive transportation plan; and

WHEREAS, A framework for the Kansas 10-year comprehensive transportation plan is expected to be approved during the 2009 Kansas legislative session; and

WHEREAS, Federal funding for passenger rail projects is now available through the federal Rail Safety Improvement Act; and

WHEREAS, \$1.9 billion will be appropriated during the federal FY 2009 through the FY 2013 for state matching capital grants not to exceed 80 percent federal contribution; and

WHEREAS, A state passenger rail plan is required to be eligible for these federal matching programs; and

WHEREAS, The State of Kansas has yet to develop a qualifying passenger rail plan; and WHEREAS, Energy price volatility is expected to continue for the foreseeable future; and

WHEREAS, Passenger rail provides a fuel efficient mode of transportation for Kansas residents, business travelers and tourists; and

WHEREAS, The Texas and Oklahoma Heartland Flyer passenger train, as operated by Amtrak, is annually one of the highest rated Amtrak passenger trains nationally in customer satisfaction; and

WHEREAS, Economic development generated by after-the-fare box-revenues are important for the safety, quality of life, stabilization of local government tax bases, out-of-state tourism and visitation with associated revenues and tax collections and economic health of Kansas communities; and

WHEREAS, Underutilized or abandoned railroad stations will benefit from the financial investment provided under federal grants and further enhance the economic opportunity and redevelopment and revitalization of main street and rural communities; and

WHEREAS, The city councils and governing bodies of 33 cities and four county governments in Kansas have submitted resolutions of support for intercity passenger rail to the Kansas governor and department of transportation; and

WHEREAS, The city councils and governing bodies of eight city councils in Northern Oklahoma as well as the cities of Denton, Gainesville and Krum, Texas have likewise issued similar resolutions; and

WHEREAS, The mayors of Ponca City, Perry, Guthrie, Edmond, Oklahoma City, Norman, Purcell and Ardmore in Oklahoma signed a letter of emergency seeking Amtrak expansion through to Kansas City: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That we recognize the Kansas department of transportation, the Oklahoma department of transportation, the Texas department of transportation and Amtrak for their work in preparing an Amtrak feasibility study; and

Be it further resolved: That the Kansas department of transportation amend the state comprehensive transportation plan with specific inclusion of intercity passenger rail development; and

Be it further resolved: That the Kansas department of transportation is encouraged to develop a long range passenger rail plan to be included within the framework of the 10-year comprehensive transportation plan, as a requirement to seek matching federal passenger rail capital funding; and

Be it further resolved: That the Kansas department of transportation take immediate action to apply for the grant provision in the federal American Recovery and Reinvestment Act of 2009 as provided for full funding and development of the intercity passenger rail

route between Kansas City and Oklahoma City, as outlined in the passenger rail feasibility study; and

Be it further resolved: That the Kansas department of transportation be enabled to prepare an application for an American Recovery and Reinvestment Act of 2009 grant pursuant to the initiation guidelines issued by the United States Federal Railroad Administration; and

Be it further resolved: That the State of Kansas intends to further develop its multimodal transportation plan incorporating supplemental state passenger rail funding contingent on the findings of the Amtrak Kansas study; and

Be it further resolved: That the State of Kansas seeks to enhance economic development opportunities in its communities through supplemental passenger rail operations; and

Be it further resolved: That Amtrak is encouraged to expedite completion and delivery of the Kansas passenger rail feasibility study; and

Be it further resolved: That the Secretary of State be directed to send enrolled copies of this resolution to the United States Department of Transportation Secretary, members of the Kansas Congressional Delegation, members of the Oklahoma Congressional Delegation, the Governors of Kansas, Oklahoma and Texas, the Secretaries of Transportation from Kansas, Oklahoma and Texas, the State Senate Presidents of Oklahoma and Texas, the House Speakers of Oklahoma and Texas, the President and Chief Executive Officer of the National Railroad Passenger Corporation and the United States Secretary of Transportation.

CHANGE OF REFERENCE

The President withdrew **SB 329** from the Committee on **Ways and Means**, and referred the bill to the Committee on **Commerce**.

MESSAGE FROM THE HOUSE

Announcing passage of HB 2295.

Announcing passage of SB 16, SB 38, SB 175.

Also, passage of SB 19, as amended, SB 85, as amended, SB 97, as amended.

The House accedes to the request of the Senate for a conference on **SB 11** and has appointed Representatives Hungtington, Rhoades and Mah as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 80** and has appointed Representatives Huebert, Schwab and Sawyer as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 131** and has appointed Representatives Hungtington, Rhoades and Mah as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 145** and has appointed Representatives Hayzlett, Vickrey and Long as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 161** and has appointed Representatives Aurand, Horst and Winn as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 171** and has appointed Representatives Huebert, Schwab and Sawyer as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2295 was thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator V. Schmidt, Barnett, Brungardt, Colyer and Reitz introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1856-

A RESOLUTION designating March 24, 2009, as Diabetes Alert Day.

WHEREAS, The state of Kansas recognizes that healthy citizens are essential for strong communities to thrive; and

WHEREAS, Diabetes is a major public health problem with increasing prevalence, poor outcomes, and high costs; and

WHEREAS, More than 150,000 Kansans have been diagnosed with diabetes and over 90% of those have Type II diabetes which can be delayed; and

WHEREAS, Early detection and disease management can help prevent complications of diabetes, including cardiovascular disease, blindness, nervous system damage and kidney failure; and

WHEREAS, The Kansas health community has come together to form the Kansas Diabetes Advisory Council to develop and implement a Kansas Diabetes Plan to reduce the negative clinical and economic impact on individuals and on the state of Kansas; and

WHEREAS, The goals of the Kansas Diabetes Plan are to increase awareness of the prevention and control of diabetes, improve the capacity to address the prevention and control of diabetes, increase Kansas' health care workforce competency in diabetes standards of care, improve awareness of and access to diabetes self-management information, programs and services and to influence public policy to support improving diabetes prevention, detection and care throughout Kansas: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we designate March 24, 2009, as Diabetes Alert Day in the State of Kansas; and

Be it further resolved: That we direct the Diabetes Advisory Council to submit a status report to the Kansas Legislature in 2010 on the progression of the Kansas Diabetes Plan;

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to the Diabetes Advisory Council and three enrolled copies to Senator Vicki Schmidt.

On emergency motion of Senator V. Schmidt SR 1856 was adopted unanimously.

On motion of Senator D. Schmidt, the Senate recessed until 10:45 a.m.

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

CHANGE OF REFERENCE

The President withdrew **SB 169** from the Calendar under the heading of General Orders, and re-referred the bill to the Committee on **Federal and State Affairs**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Owens moved the Senate concur in house amendments to SB 34.

SB 34, An act concerning open records; relating to the exceptions to disclosure; amending K.S.A. 2008 Supp. 45-229 and repealing the existing section; also repealing K.S.A. 2008 Supp. 45-229c.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

Senator Owens moved the Senate concur in house amendments to SB 70.

SB 70, An act concerning trusts; relating to the uniform principal and income act. On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0. Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

Senator Owens moved the Senate concur in house amendments to SB 132.

SB 132, An act enacting the business entity transactions act; amending K.S.A. 17-7675, 17-7681, 56a-401, 56a-502, 56a-905, 56a-906, 56a-907 and 56a-908 and repealing the existing sections; also repealing K.S.A. 17-7684, 17-7685, 17-7701, 17-7702, 17-7703, 17-7704, 17-7705, 17-7706, 17-7706, 17-7707, 17-7709, 56a-901, 56a-902, 56a-903 and 56a-904.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

REPORT ON ENROLLED BILLS

SR 1851, SR 1853, SR 1854, SR 1855, SR 1856 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 23, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Judiciary recommends SCR 1611 be adopted.

Committee on **Natural Resources** recommends **SB 184** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 184," as follows:

"Substitute for SENATE BILL No. 184

By Committee on Natural Resources

"AN ACT enacting the Kansas surface owner notice act; relating to oil and gas operations; state corporation commission.";

and the substitute bill be passed.

Committee on **Transportation** recommends **HB 2152** be amended on page 2, after line 8, by inserting the following:

"(c) A city ordinance or county resolution authorizing the towing of vehicles shall specify in such ordinance or resolution: (1) The maximum rate such wrecker or towing service may charge for such wrecker or towing service and storage fees; (2) that an owner of a vehicle towed shall have access to personal property in such vehicle on or before 48 hours after such vehicle is towed; and (3) that the wrecker or towing service shall report the location of such vehicle to local law enforcement within two hours of such tow."; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

Recommended: SB 268 be passed.

SB 146, SB 201, SB 298 be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee report on **HB 2219** recommending a **S Sub for HB 2219** be adopted, and the substitute bill be passed.

SCR 1614 be adopted.

A motion by Senator Kelly to amend **SCR 1614** failed and the following amendment was rejected: on page 1, in line 28, by striking "equal to" and inserting "not to exceed"; in line 30, before the period, by inserting ", if the state revenues collected for such 12 months

exceed the amount of the state revenues collected for the 12 months immediately preceding such 12 months. The annual amount transferred shall be the lessor of the actual amount of such state revenues which increased from the 12 months immediately preceding such 12 months or .25% of such state revenues. The annual amount transferred into the budget stabilization fund shall not be considered in the amount of state revenues collected for such 12 months"; On page 2, in line 20, after "annually" by inserting "not more than"; in line 22, before the period, by inserting ", if the state revenues collected for such 12 months immediately preceding such 12 months. The annual amount transferred shall be the lessor of the actual amount of state revenues which increased from the 12 months immediately preceding such 12 months. The annual amount transferred shall be the lessor of the actual amount of such state revenues. The annual amount transferred into the budget stabilization fund shall not be considered in the amount of state revenues collected for such 12 months immediately preceding such 12 months. The annual amount transferred shall be the lessor of the actual amount of such state revenues. The annual amount transferred into the budget stabilization fund shall not be considered in the amount of state revenues collected for such 12 months

SCR 1602 be amended by motion of Senator Bruce, on page 3, line 34, by striking the word "August" and inserting the word "November", and **SCR 1602** be adopted as amended.

A motion by Senator Donovan to amend **SCR 1602** failed and the following amendment was rejected: on page 3, in line 34, by striking "general"

SB 316 be amended by motion Senator Taddiken, on page 1, in line 16, after "secretary" by inserting "of health and environment"; in line 20, after "secretary" by inserting "of health and environment"; in line 26, by striking all after "secretary" where it appears the first time; by striking all in lines 27 and 28; in line 29, by striking all before the period and inserting "of health and environment"; in line 31, after "secretary" by inserting "of health and environment"; by striking all in lines 36 through 41; in line 42, by striking "(e)" and inserting "(d)";

On page 2, in line 9, by striking "the secretary of agriculture or" in line 10, by striking "if applicable"; in line 17, by striking "the"; in line 18, by striking "secretary of agriculture or"; in line 24, by striking "the secretary of agriculture or"; in line 25, by striking "the secretary of agriculture or"; also in line 25, by striking "the secretary of"; in line 26, by striking "agriculture or"; also in line 26, by striking "as applicable,"; in line 27, by striking "the secretary of ag-"; in line 28, by striking "riculture or"; also in line 28, by striking "as applicable,"; and again applicable, and a striking "as applicable,"; in line 28, by striking "secretary of ag-"; in line 28, by striking "secretary of ag-"; and again again

On page 3, in line 13, by striking "the secretary of agriculture or"; in line 14, by striking "as applicable"; in line 20, by striking "the secretary of agriculture or"; in line 21, by striking "as applicable"; in line 32, by striking "the secretary of agriculture or"; in line 33, by striking "as applicable";

On page 4, in line 16, by striking "of agriculture or the Kansas department"; in line 17, by striking "as applicable"; in line 22, by striking "the department of agriculture"; in line 23, by striking "or"; also in line 23, by striking "as applicable";

On page 6, in line 11, by striking "and the de-"; by striking all in line 12 and 13; in line 14, by striking all before the period; in line 15, by striking "secretary of agriculture or the"; in line 16, by striking "as applicable"; and **SB 316** be passed as amended.

The committee rose and reported progress. (See Committee of the Whole Afternoon Session).

MESSAGE FROM THE HOUSE

Announcing passage of HB 2310, HB 2366.

Passage of SB 228.

Also, passage of SB 72, as amended; SB 163, as amended, SB 178, as amended.

The House concurs in Senate amendments to HB 2098.

The House concurs in Senate amendments to HB 2185.

The House concurs in Senate amendments to **HB 2233**.

The House nonconcurs in Senate amendments to **HB 2010**, requests a conference and appoints Representatives Landwehr, Crum and Flaharty as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2060**, requests a conference and appoints Representatives Colloton, Patton and McCray-Miller as conferees on the part of the House.

The House nonconcurs in Senate amendments to **Senate Substitute for HB 2096**, requests a conference and appoints Representatives Colloton, Patton and McCray-Miller as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2131**, requests a conference and appoints Representatives Hayzlett, Vickrey and Long as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2134**, requests a conference and appoints Representatives Hayzlett, Vickrey and Long as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2310, HB 2366 were thereupon introduced and read by title.

CHANGE OF REFERENCE

The President withdrew **SB 305** from the Calendar under the heading of General Orders, and referred the bill to the Committee on **Judiciary**.

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

AFTERNOON SESSION

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 330, An act concerning nursing facilities; relating to the reimbursement rate; amending K.S.A. 2008 Supp. 75-5958 and repealing the existing section, by Committee on Ways and Means.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator McGinn the Senate nonconcurred in the House amendments to **SB 64** and requested a conference committee be appointed.

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

ORIGINAL MOTION

On motion of Senator Barnett, the Senate acceded to the request of the House for a conference on **HB 2010**.

The President appointed Senators Barnett, V. Schmidt and Haley as conferees on the part of the Senate.

On motion of Senator Owens, the Senate acceded to the request of the House for a conference on **HB 2060**.

The President appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

On motion of Senator Owens, the Senate acceded to the request of the House for a conference on **S Sub for HB 2096**.

The President appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **HB 2131**.

The President appointed Senators Umbarger, Marshall and Kultala as conferees on the part of the Senate.

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **HB 2134**.

The President appointed Senators Umbarger, Marshall and Kultala as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Petersen, Abrams, Apple, Barnett, Brownlee, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, and Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1859-

A RESOLUTION supporting the Airborne Laser program and urging the United State Congress to provide the necessary funding for the on-going development and operation of the program.

WHERĒAŠ, The Airborne Laser Program has the potential to be one of the cornerstones of the nation's layered missile defense architecture against ballistic missile threats; and

WHEREAS, Significant program development accomplishments during 2008 included firing a high-energy laser through the Airborne Laser's beam control/fire control system, completing the first ground test of the entire weapon system integrated aboard the aircraft; and

WHEREAS, The Airborne Laser will demonstrate its capabilities against a boosting missile in 2009 and also offers multi-mission potential and capability to fill capability gaps in surface-to-air missile defense, cruise missile defense and air-to-air defense, and

WHEREAS, Now is the time for the United States to stay the course in supporting the Airborne Laser program System as one of future cornerstones of the nation's missile defense shield against ballistic missile threats; and

WHEREAS, The Boeing Wichita facility, and its Kansas employees, have played a vital role in the development and modification of the first Airborne Laser system on a 747-400, and if the program continues after this year's shoot-down demonstration, Kansas and the Wichita area will potentially receive many long-term benefits from the program: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we support the continued robust investment in development for the Airborne Laser program and that we respectfully urge the United States Congress to provide the necessary funding for the on-going development and operation of the Airborne Laser Program; and

Be it further resolved: That we respectfully urge the United States Congress to direct the United States Department of Defense to continue the development and operation of the Airborne Laser System; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to the Honorable Barack Obama, President of the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and President of the United States Senate; the Honorable Harry Reid, Majority Leader of the United States Senate; the Honorable Mitch McConnell, Minority Leader of the United States Senate; the Honorable Nancy Pelosi, Speaker of the United States House of Representatives; the Honorable John Boehner, Minority Leader of the United States House of Representatives; the Honorable Robert M. Gates, United States Secretary of Defense and Members of the Kansas Congressional Delegation.

REPORT ON ENGROSSED BILLS

SB 34, SB 70 reported correctly engrossed March 23, 2009. Also, **SB 132** correctly re-engrossed March 23, 2009.

COMMITTEE OF THE WHOLE

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

On motion of Senator Wysong the following report was adopted:

Recommended: Sub HB 2050, HB 2172, HB 2201 be passed.

Recommended **SB 92, SB 94; HB 2258** be amended by adoption of the committee amendments and the bills be passed as amended.

The committee report on **SB 220** recommending a **Sub SB 220** be adopted, and the substitute bill be passed.

HB 2172 was reconsidered on a motion of Senator Donovan, and **HB 2172** be amended by motion of Senator Donovan on page 11, after line 6, by inserting the following:

"Sec. 2. K.S.A. 2008 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3%. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) the gross receipts from intrastate, interstate or international telecommunications services and any ancillary services sourced to this state in accordance with K.S.A. 2008 Supp. 79-3673, and amendments thereto, except that telecommunications service does not include: (1) Any interstate or international 800 or 900 service; (2) any interstate or international private communications service as defined in K.S.A. 2008 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice data service; (4) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (5) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for all sales of propane gas, LP gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such

machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

 (i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and washing and washing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to socion 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e); and (3) fees and charges for participating in guided and nonguided hunts and fishing expeditions and excursions and hunting or fishing leases;

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company on the when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company are transferred to such other corporation or limited liability company are transferred to such other the subject to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. Any amount of sales tax paid pursuant to the Kansas retailers sales tax act on the isolated or occasional sale of motor vehicles or trailers on and after July 1, 2004, which the base for computing the tax was the value pursuant to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105, and amendments thereto, when such amount was higher than the amount of sales tax which would have been paid under the law as it existed on June 30,

2004, shall be refunded to the taxpayer pursuant to the procedure prescribed by this section. Such refund shall be in an amount equal to the difference between the amount of sales tax paid by the taxpayer and the amount of sales tax which would have been paid by the taxpayer under the law as it existed on June 30, 2004. Each claim for a sales tax refund shall be verified and submitted not later than six months from the effective date of this act to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of tax paid as provided by this act. All such refunds shall be paid from the sales tax refund fund, upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or the director's designee. No refund for an amount less than \$10 shall be paid pursuant to this act. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building, facility or utility structure damaged or destroyed by fire, flood, tornado, lightning, explosion, windstorm, ice loading and attendant winds, terrorism or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility;

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(5) "utility structure" shall mean transmission and distribution lines owned by an independent transmission company or cooperative, the Kansas electric transmission authority or natural gas or electric public utility; and

(6) "windstorm" shall mean straight line winds of at least 80 miles per hour as determined by a recognized meteorological reporting agency or organization;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) on and after January 1, 2005, the gross receipts received from the sale of prewritten computer software and the sale of the services of modifying, altering, updating or maintain-

ing prewritten computer software, whether the prewritten computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services;

(u) the gross receipts received from the sale of prepaid calling service and prepaid wireless calling service as defined in K.S.A. 2008 Supp. 79-3673, and amendments thereto; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq., and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 3. K.S.A. 2008 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, drycleaning and laundry services taxed pursuant to K.S.A. 65-3424d, and amendments thereto, and gross receipts from regulated sports contests taxed pursuant to the Kansas professional regulated sports act, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposes to engage in the business of furnishing gas, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business.

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, a public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school, educational institution or a state correctional institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district described in subsection (*s*), the total cost of which is paid from funds of such political subdivision or district and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision or district. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any

construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or any such district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, district described in subsection (s), public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or department of corrections concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or the contractor contracting with the department of corrections for a correctional institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such

contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft sold to persons using directly or through an authorized agent such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft for use outside of the United States and sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 79-3603 and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used

in this subsection, "drug" means a compound, substance or preparation and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages, recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary, and supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or intended to affect the structure or any function of the body;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of oxygen delivery equipment, kidney dialysis equipment, enteral feeding systems, prosthetic devices and mobility enhancing equipment prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry, and in addition to such sales, all sales of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments thereto, and repair and replacement parts therefor, including batteries, by a person licensed in the practice of dispensing and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto. For the purposes of this subsection: (1) "Mobility enhancing equipment" means equipment including repair and replacement parts to same, but does not include durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer; and (2) "prosthetic device" means a replacement, corrective or supportive device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body;

(s) except as provided in K.S.A. 2008 Supp. 82a-2101, and amendments thereto, all sales of tangible personal property or services purchased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq. and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of perturbation of the authority of K.S.A. 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto, which property or services are used in the construction activities, operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment or aquaculture machinery and equipment" shall include a worksite utility vehicle, as defined in K.S.A. 8-126, and amendments thereto, and is equipped with a bed or cargo box for hauling materials, and shall also include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto. "Farm machinery and equipment" includes precision farming equipment that is portable or is installed or purchased to be installed on farm machinery and equipment. "Precision farming equipment" includes the following items used only in computer-assisted farming, ranching or aquaculture production operations: Soil testing sensors, yield monitors, computers, monitors, software, global positioning and mapping systems, guiding systems, modems, data communications equipment and any necessary mounting hardware, wiring and antennas. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of tangible personal property to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of tangible personal property for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose, and all sales of food products by or on behalf of any such contractor or organization for any such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b Second through Sixth. As used in this paragraph, "severing" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and amendments thereto. For all sales of natural gas, electricity and heat delivered through mains, lines or pipes pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions of this subsection shall expire on December 31, 2005;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises occurring prior to January 1, 2006;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418 and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor

and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment, including durable medical equipment, purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes. As used in this subsection, "durable medical equipment" means equipment including repair and replacement parts for such equipment, which can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury and is not worn in or on the body, but does not include mobility enhancing equipment as defined in subsection (r), oxygen delivery equipment, kidney dialysis equipment or enteral feeding systems;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto and all sales of tangible personal property or services purchased by contractors during the time period from July, 2003, through June, 2006, for the purpose of constructing, equipping, maintaining or furnishing a new facility for a community-based mental retardation facility or mental health center located in Riverton, Cherokee County, Kansas, which would have been eligible for sales tax exemption pursuant to this subsection if purchased directly by such facility or center. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) "Integrated production operation" means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) "production line" means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) "manufacturing or processing plant or facility" means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) "manufacturing or processing business" means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, nonindustrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

 (\tilde{E}) "repair and replacement parts and accessories" means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) "primary" or "primarily" mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing manufacturing or processing at any point from the beginning of the production line through any warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from offsite, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

 $\left(L\right)$ to treat, transport or store waste or other by products of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; and (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E).

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility; (D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purpose at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

(ll) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American Heart Association, Kansas Affiliate, Inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas Mental Illness Awareness Council for the purposes of advocacy for persons who are mentally ill and to education, research and support for them and their families;

(4) the American Diabetes Association Kansas Affiliate, Inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American Lung Association of Kansas, Inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease;

(6) the Kansas chapters of the Alzheimer's Disease and Related Disorders Association, Inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(7) the Kansas chapters of the Parkinson's disease association for the purpose of eliminating Parkinson's disease through medical research and public and professional education related to such disease;

(8) the National Kidney Foundation of Kansas and Western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;

(9) the heartstrings community foundation for the purpose of providing training, employment and activities for adults with developmental disabilities;

(10) the Cystic Fibrosis Foundation, Heart of America Chapter, for the purposes of assuring the development of the means to cure and control cystic fibrosis and improving the quality of life for those with the disease;

(11) the spina bifida association of Kansas for the purpose of providing financial, educational and practical aid to families and individuals with spina bifida. Such aid includes, but is not limited to, funding for medical devices, counseling and medical educational opportunities;

(12) the CHWC, Inc., for the purpose of rebuilding urban core neighborhoods through the construction of new homes, acquiring and renovating existing homes and other related activities, and promoting economic development in such neighborhoods;

(13) the cross-lines cooperative council for the purpose of providing social services to low income individuals and families;

(14) the Dreams Work, Inc., for the purpose of providing young adult day services to individuals with developmental disabilities and assisting families in avoiding institutional or nursing home care for a developmentally disabled member of their family;

(15) the KSDS, Inc., for the purpose of promoting the independence and inclusion of people with disabilities as fully participating and contributing members of their communities and society through the training and providing of guide and service dogs to people with disabilities, and providing disability education and awareness to the general public;

(16) the lyme association of greater Kansas City, Inc., for the purpose of providing support to persons with lyme disease and public education relating to the prevention, treatment and cure of lyme disease;

 $\left(17\right)$ the Dream Factory, Inc., for the purpose of granting the dreams of children with critical and chronic illnesses;

(18) the Ottawa Suzuki Strings, Inc., for the purpose of providing students and families with education and resources necessary to enable each child to develop fine character and musical ability to the fullest potential;

(19) the International Association of Lions Clubs for the purpose of creating and fostering a spirit of understanding among all people for humanitarian needs by providing voluntary services through community involvement and international cooperation; (20) the Johnson county young matrons, inc., for the purpose of promoting a positive future for members of the community through volunteerism, financial support and education through the efforts of an all volunteer organization;

(21) the American Cancer Society, Inc., for the purpose of eliminating cancer as a major health problem by preventing cancer, saving lives and diminishing suffering from cancer, through research, education, advocacy and service;

(22) the community services of Shawnee, inc., for the purpose of providing food and clothing to those in need; and

(23) the angel babies association, for the purpose of providing assistance, support and items of necessity to teenage mothers and their babies;

(ww) all sales of tangible personal property purchased by the Habitat for Humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(yy) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under

the provisions of this section if purchased directly by such clinic or center. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

(eee) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation;

(ggg) all sales of tangible personal property and services purchased by or on behalf of the Kansas Academy of Science which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials;

(hhh) all sales of tangible personal property and services purchased by or on behalf of all domestic violence shelters that are member agencies of the Kansas coalition against sexual and domestic violence;

(iii) all sales of personal property and services purchased by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the collection, storage and distribution of food products to nonprofit organizations which distribute such food products to persons pursuant to a food distribution program on a charitable basis without fee or charge, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities used for the collection and storage of such food products for any such organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 2005, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(jjj) all sales of dietary supplements dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "dietary supplement" means any product, other than tobacco, intended to supplement the diet that: (1) Contains one or more of the following dietary ingredients: A vitamin, a mineral, an herb or other botanical, an amino acid, a dietary substance for use by humans to supplement the diet by increasing the total dietary intake or a concentrate, metabolite, constituent, extract or combination of any such ingredient; (2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or if not intended for ingestion, in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and (3) is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 C.F.R. § 101.36;

(III) all sales of tangible personal property and services purchased by special olympics Kansas, inc. for the purpose of providing year-round sports training and athletic competition in a variety of olympic-type sports for individuals with intellectual disabilities by giving them continuing opportunities to develop physical fitness, demonstrate courage, experience joy and participate in a sharing of gifts, skills and friendship with their families, other special olympics athletes and the community, and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization;

(mmm) all sales of tangible personal property purchased by or on behalf of the Marillac Center, Inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing psycho-social-biological and special education services to children, and all sales of any such property by or on behalf of such organization for such purpose;

(nnn) all sales of tangible personal property and services purchased by the West Sedgwick County-Sunrise Rotary Club and Sunrise Charitable Fund for the purpose of constructing a boundless playground which is an integrated, barrier free and developmentally advantageous play environment for children of all abilities and disabilities;

(ooo) all sales of tangible personal property by or on behalf of a public library serving the general public and supported in whole or in part with tax money or a not-for-profit organization whose purpose is to raise funds for or provide services or other benefits to any such public library;

(ppp) all sales of tangible personal property and services purchased by or on behalf of a homeless shelter which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal income tax code of 1986, and used by any such homeless shelter to provide emergency and transitional housing for individuals and families experiencing homelessness, and all sales of any such property by or on behalf of any such homeless shelter for any such purpose;

(qqq) all sales of tangible personal property and services purchased by TLC for children and families, inc., hereinafter referred to as TLC, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of TLC for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC. When TLC contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(rrr) all sales of tangible personal property and services purchased by any county law library maintained pursuant to law and sales of tangible personal property and services purchased by an organization which would have been exempt from taxation under the provisions of this subsection if purchased directly by the county law library for the purpose of providing legal resources to attorneys, judges, students and the general public, and all sales of any such property by or on behalf of any such county law library;

(sss) all sales of tangible personal property and services purchased by catholic charities or youthville, hereinafter referred to as charitable family providers, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of charitable family providers for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for charitable family providers for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by charitable family providers. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for charitable family providers. When charitable family providers contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to charitable family providers a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, charitable family providers shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ttt) all sales of tangible personal property or services purchased by a contractor for a project for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility owned by a nonprofit museum which has been granted an exemption pursuant to subsection (qq), which such home or facility is located in a city which has been designated as a qualified hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and amendments thereto, and which such project is related to the purposes of K.S.A. 75-5071 et seq., and amendments thereto, and which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit museum. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility for any such nonprofit museum. When any such nonprofit museum shall contract for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such nonprofit museum a sworn statement on a form to be provided by the director of taxation that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in a home or facility or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such nonprofit museum shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(uuu) all sales of tangible personal property and services purchased by Kansas children's service league, hereinafter referred to as KCSL, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing for the prevention and treatment of child abuse and maltreatment as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of KCSL for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for KCSL for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by KCSL. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for KCSL. When KCSL contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to KCSL a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All

invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, KCSL shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(vvv) all sales of tangible personal property or services, including the renting and leasing of tangible personal property or services, purchased by Jazz in the Woods, Inc., a Kansas corporation which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, for the purpose of providing Jazz in the Woods, an event benefiting children-in-need and other nonprofit charities assisting such children, and all sales of any such property by or on behalf of such organization for such purpose;

(www) all sales of tangible personal property purchased by or on behalf of the Frontenac Education Foundation, which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, for the purpose of providing education support for students, and all sales of any such property by or on behalf of such organization for such purpose;

(xxx) all sales of personal property and services purchased by the booth theatre foundation, inc., an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of the booth theatre, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling the booth theatre for such organization, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof,

who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after January 1, 2007, but prior to the effective date of this act upon the gross receipts received from any sale which would have been exempted by the provisions of this subsection had such sale occurred after the effective date of this act shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(yyy) all sales of tangible personal property and services purchased by TLC charities foundation, inc., hereinafter referred to as TLC charities, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of encouraging private philanthropy to further the vision, values, and goals of TLC for children and families, inc.; and all sales of such property and services by or on behalf of TLC charities for any such purpose and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC charities for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC charities. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC charities. When TLC charities contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC charities a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be incorporated into the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC charities shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(zzz) all sales of tangible personal property purchased by the rotary club of shawnee foundation which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, as amended, used for the purpose of providing contributions to community service organizations and scholarships;

(aaaa) all sales of personal property and services purchased by or on behalf of victory in the valley, inc., which is exempt from federal income taxation pursuant to section 501 (c)(3)

of the federal internal revenue code, for the purpose of providing a cancer support group and services for persons with cancer, and all sales of any such property by or on behalf of any such organization for any such purpose;

(bbbb) all sales of entry or participation fees, charges or tickets by Guadalupe health foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for such organization's annual fundraising event which purpose is to provide health care services for uninsured workers; and

(cccc) all sales of tangible personal property or services purchased by or on behalf of wayside waifs, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing such organization's annual fundraiser, an event whose purpose is to support the care of homeless and abandoned animals, animal adoption efforts, education programs for children and efforts to reduce animal over-population and animal welfare services, and all sales of any such property, including entry or participation fees or charges, by or on behalf of such organization for such purpose;

(dddd) all sales of tangible personal property or services purchased by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc., both of which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education, training and employment opportunities for people with disabilities and other barriers to employment; and

(eeee) all sales of game birds for which the primary purpose is use in hunting.";

And by renumbering the remaining sections accordingly;

Also on page 11, in line 7, by striking "is" and inserting ", 79-3603 and 79-3606 are";

On page 1, in the title, in line 10, after the semicolon, by inserting "exemptions"; also in line 10, after "79-3602" by inserting ", 79-3603 and 79-3606"; in line 11, by striking "section" and inserting "sections"

HB 2172 be amended by motion of Senator Huelskamp, as amended on March 23, 2009, by amendment offered by Senator Donovan designated as FAH2172g1-984, in Section 3, which amends K.S.A. 2008 Supp. 79-3606, by inserting a new subsection "(dddd)" to read as follows:

"(ddd) all sales of tangible personal property or services purchased by or on behalf of All American Beef Battalion, Inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of educating, promoting and participating as a contact group through the beef cattle industry in order to carry out such projects that provide support and morale to members of the United States armed forces and military services;";

Also by relettering subsections (dddd) and (eeee) as subsections (eeee) and (ffff)

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

On roll call, the vote was: Yeas 23, Nays 9, Present and Passing 6, Absent or Not Voting 2.

Yeas: Abrams, Apple, Brownlee, Colyer, Donovan, Faust-Goudeau, Haley, Holland, Huelskamp, Kelsey, Kultala, Lynn, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Umbarger.

Nays: Bruce, Brungardt, Francisco, Hensley, Owens, Reitz, Taddiken, Vratil, Wysong. Present and Passing: Barnett, Kelly, Lee, Morris, Teichman, Wagle.

Absent or Not Voting: Emler, McGinn.

The motion carried and the amendment was adopted.

HB 2172 be amended by motion of Senator V. Schmidt, on page 11, after line 6, by inserting the following:

"Sec. 2. K.S.A. 2008 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amend-

ments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry services taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross receipts from regulated sports contests taxed pursuant to the Kansas professional regulated sports act, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or non-profit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, a public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school, educational institution or a state correctional institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district described in subsection (s), the total cost of which is paid from funds of such political subdivision or district and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision or district. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or any such district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, district described in subsection (s), public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or department of corrections concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or the contractor contracting with the department of corrections for a correctional institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft sold to persons using directly or through an authorized agent such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft for use outside of the United States and sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 79-3603 and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "drug" means a compound, substance or preparation and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages, recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary, and supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or intended to affect the structure or any function of the body;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of oxygen delivery equipment, kidney dialysis equipment, enteral feeding systems, prosthetic devices and mobility enhancing equipment prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry, and in addition to such sales, all sales of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments thereto, and repair and replacement parts therefor, including batteries, by a person licensed in the practice of dispensing and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto. For the purposes of this subsection: (1) "Mobility enhancing equipment" means equipment including repair and replacement parts to same, but does not include durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal

mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer; and (2) "prosthetic device" means a replacement, corrective or supportive device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body;

(s) except as provided in K.S.A. 2008 Supp. 82a-2101, and amendments thereto, all sales of tangible personal property or services purchased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq. and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of k.S.A. 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto, which property or services are used in the construction activities, operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment or aquaculture machinery and equipment" shall include a worksite utility vehicle, as defined in K.S.A. 8-126, and amendments thereto, and is equipped with a bed or cargo box for hauling materials, and shall also include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto. "Farm machinery and equipment" includes precision farming equipment that is portable or is installed or purchased to be installed on farm machinery and equipment. "Precision farming equipment" includes the following items used only in computer-assisted farming, ranching or aquaculture production operations: Soil testing sensors, yield monitors, computers, monitors, software, global positioning and mapping systems, guiding systems, modems, data communications equipment and any necessary mounting hardware, wiring and antennas. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of tangible personal property to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of tangible personal property for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose, and all sales of food products by or on behalf of any such contractor or organization for any such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b Second through Sixth. As used in this paragraph, "severing" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and amendments thereto. For all sales of natural gas, electricity and heat delivered through mains, lines or pipes pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions of this subsection shall expire on December 31, 2005;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises occurring prior to January 1, 2006;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418 and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment, including durable medical equipment, purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes. As used in this subsection, "durable medical equipment" means equipment including repair and replacement parts for such equipment, which can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury and is not worn in or on the body, but does not include mobility enhancing equipment as defined in subsection (r), oxygen delivery equipment, kidney dialysis equipment or enteral feeding systems;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto and all sales of tangible personal property or services purchased by contractors during the time period from July, 2003, through June, 2006, for the purpose of constructing, equipping, maintaining or furnishing a new facility for a community-based mental retardation facility or mental health center located in Riverton, Cherokee County, Kansas, which would have been eligible for sales tax exemption pursuant to this subsection if purchased directly by such facility or center. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) "Integrated production operation" means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) "production line" means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) "manufacturing or processing plant or facility" means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) "manufacturing or processing business" means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity

power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, nonindustrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

(È) "repair and replacement parts and accessories" means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) "primary" or "primarily" mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing manufacturing or processing at any point from the beginning of the production line through any warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from offsite, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

 $\left(L\right)$ to treat, transport or store waste or other by products of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; and (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E).

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purpose at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

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(ll) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a notfor-profit corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American Heart Association, Kansas Affiliate, Inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas Mental Illness Awareness Council for the purposes of advocacy for persons who are mentally ill and to education, research and support for them and their families;

(4) the American Diabetes Association Kansas Affiliate, Inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American Lung Association of Kansas, Inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease;

(6) the Kansas chapters of the Alzheimer's Disease and Related Disorders Association, Inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(7) the Kansas chapters of the Parkinson's disease association for the purpose of eliminating Parkinson's disease through medical research and public and professional education related to such disease; (8) the National Kidney Foundation of Kansas and Western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;

(9) the heartstrings community foundation for the purpose of providing training, employment and activities for adults with developmental disabilities;

(10) the Cystic Fibrosis Foundation, Heart of America Chapter, for the purposes of assuring the development of the means to cure and control cystic fibrosis and improving the quality of life for those with the disease;

(11) the spina bifida association of Kansas for the purpose of providing financial, educational and practical aid to families and individuals with spina bifida. Such aid includes, but is not limited to, funding for medical devices, counseling and medical educational opportunities;

(12) the CHWC, Inc., for the purpose of rebuilding urban core neighborhoods through the construction of new homes, acquiring and renovating existing homes and other related activities, and promoting economic development in such neighborhoods;

(13) the cross-lines cooperative council for the purpose of providing social services to low income individuals and families;

(14) the Dreams Work, Inc., for the purpose of providing young adult day services to individuals with developmental disabilities and assisting families in avoiding institutional or nursing home care for a developmentally disabled member of their family;

(15) the KSDS, Inc., for the purpose of promoting the independence and inclusion of people with disabilities as fully participating and contributing members of their communities and society through the training and providing of guide and service dogs to people with disabilities, and providing disability education and awareness to the general public;

(16) the lyme association of greater Kansas City, Inc., for the purpose of providing support to persons with lyme disease and public education relating to the prevention, treatment and cure of lyme disease;

(17) the Dream Factory, Inc., for the purpose of granting the dreams of children with critical and chronic illnesses;

(18) the Ottawa Suzuki Strings, Inc., for the purpose of providing students and families with education and resources necessary to enable each child to develop fine character and musical ability to the fullest potential;

(19) the International Association of Lions Clubs for the purpose of creating and fostering a spirit of understanding among all people for humanitarian needs by providing voluntary services through community involvement and international cooperation;

(20) the Johnson county young matrons, inc., for the purpose of promoting a positive future for members of the community through volunteerism, financial support and education through the efforts of an all volunteer organization;

(21) the American Cancer Society, Inc., for the purpose of eliminating cancer as a major health problem by preventing cancer, saving lives and diminishing suffering from cancer, through research, education, advocacy and service;

 $\left(22\right)$ the community services of Shawnee, inc., for the purpose of providing food and clothing to those in need; and

(23) the angel babies association, for the purpose of providing assistance, support and items of necessity to teenage mothers and their babies;

(ww) all sales of tangible personal property purchased by the Habitat for Humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection

shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(yy) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the

contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover

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the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

(eee) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation;

(ggg) all sales of tangible personal property and services purchased by or on behalf of the Kansas Academy of Science which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials;

(hhh) all sales of tangible personal property and services purchased by or on behalf of all domestic violence shelters that are member agencies of the Kansas coalition against sexual and domestic violence;

(iii) all sales of personal property and services purchased by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the collection, storage and distribution of food products to nonprofit organizations which distribute such food products to persons pursuant to a food distribution program on a charitable basis without fee or charge, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities used for the collection and storage of such food products for any such organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials

for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 2005, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(jjj) all sales of dietary supplements dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "dietary supplement" means any product, other than tobacco, intended to supplement the diet that: (1) Contains one or more of the following dietary ingredients: A vitamin, a mineral, an herb or other botanical, an amino acid, a dietary substance for use by humans to supplement the diet bit increasing the total dietary intake or a concentrate, metabolite, constituent, extract or combination of any such ingredient; (2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or if not intended for use as a sole item of a meal or of the diet; and (3) is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 C.F.R. § 101.36;

(III) all sales of tangible personal property and services purchased by special olympics Kansas, inc. for the purpose of providing year-round sports training and athletic competition in a variety of olympic-type sports for individuals with intellectual disabilities by giving them continuing opportunities to develop physical fitness, demonstrate courage, experience joy and participate in a sharing of gifts, skills and friendship with their families, other special olympics athletes and the community, and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization;

(mmm) all sales of tangible personal property purchased by or on behalf of the Marillac Center, Inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing psycho-social-biological and special education services to children, and all sales of any such property by or on behalf of such organization for such purpose;

(nnn) all sales of tangible personal property and services purchased by the West Sedgwick County-Sunrise Rotary Club and Sunrise Charitable Fund for the purpose of constructing a boundless playground which is an integrated, barrier free and developmentally advantageous play environment for children of all abilities and disabilities; (ooo) all sales of tangible personal property by or on behalf of a public library serving the general public and supported in whole or in part with tax money or a not-for-profit organization whose purpose is to raise funds for or provide services or other benefits to any such public library;

(ppp) all sales of tangible personal property and services purchased by or on behalf of a homeless shelter which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal income tax code of 1986, and used by any such homeless shelter to provide emergency and transitional housing for individuals and families experiencing homelessness, and all sales of any such property by or on behalf of any such homeless shelter for any such purpose;

(qqq) all sales of tangible personal property and services purchased by TLC for children and families, inc., hereinafter referred to as TLC, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of TLC for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC. When TLC contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(rrr) all sales of tangible personal property and services purchased by any county law library maintained pursuant to law and sales of tangible personal property and services purchased by an organization which would have been exempt from taxation under the provisions of this subsection if purchased directly by the county law library for the purpose of providing legal resources to attorneys, judges, students and the general public, and all sales of any such property by or on behalf of any such county law library;

(sss) all sales of tangible personal property and services purchased by catholic charities or youthville, hereinafter referred to as charitable family providers, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional

critical needs for children, juveniles and family, and all sales of any such property by or on behalf of charitable family providers for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for charitable family providers for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by charitable family providers. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for charitable family providers. When charitable family providers contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to charitable family providers a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, charitable family providers shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ttt) all sales of tangible personal property or services purchased by a contractor for a project for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility owned by a nonprofit museum which has been granted an exemption pursuant to subsection (qq), which such home or facility is located in a city which has been designated as a qualified hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and amendments thereto, and which such project is related to the purposes of K.S.A. 75-5071 et seq., and amendments thereto, and which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit museum. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility for any such nonprofit museum. When any such nonprofit museum shall contract for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such nonprofit museum a sworn statement on a form to be provided by the director of taxation that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or

compensating tax otherwise imposed upon such materials which will not be so incorporated in a home or facility or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such nonprofit museum shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(uuu) all sales of tangible personal property and services purchased by Kansas children's service league, hereinafter referred to as KCSL, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing for the prevention and treatment of child abuse and maltreatment as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of KCSL for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for KCSL for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by KCSL. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for KCSL. When KCSL contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to KCSL a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, KCSL shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(vvv) all sales of tangible personal property or services, including the renting and leasing of tangible personal property or services, purchased by Jazz in the Woods, Inc., a Kansas corporation which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, for the purpose of providing Jazz in the Woods, an event benefiting children-in-need and other nonprofit charities assisting such children, and all sales of any such property by or on behalf of such organization for such purpose;

(www) all sales of tangible personal property purchased by or on behalf of the Frontenac Education Foundation, which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, for the purpose of providing education

support for students, and all sales of any such property by or on behalf of such organization for such purpose;

(xxx) all sales of personal property and services purchased by the booth theatre foundation, inc., an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of the booth theatre, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling the booth theatre for such organization, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after January 1, 2007, but prior to the effective date of this act upon the gross receipts received from any sale which would have been exempted by the provisions of this subsection had such sale occurred after the effective date of this act shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(yyy) all sales of tangible personal property and services purchased by TLC charities foundation, inc., hereinafter referred to as TLC charities, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of encouraging private philanthropy to further the vision, values, and goals of TLC for children and families, inc.; and all sales of such property and services by or on behalf of TLC charities for any such purpose and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC charities for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC

charities. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC charities. When TLC charities contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC charities a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be incorporated into the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC charities shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(zzz) all sales of tangible personal property purchased by the rotary club of shawnee foundation which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, as amended, used for the purpose of providing contributions to community service organizations and scholarships;

(aaaa) all sales of personal property and services purchased by or on behalf of victory in the valley, inc., which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, for the purpose of providing a cancer support group and services for persons with cancer, and all sales of any such property by or on behalf of any such organization for any such purpose;

(bbbb) all sales of entry or participation fees, charges or tickets by Guadalupe health foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for such organization's annual fundraising event which purpose is to provide health care services for uninsured workers; and

(cccc) all sales of tangible personal property or services purchased by or on behalf of wayside waifs, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing such organization's annual fundraiser, an event whose purpose is to support the care of homeless and abandoned animals, animal adoption efforts, education programs for children and efforts to reduce animal over-population and animal welfare services, and all sales of any such property, including entry or participation fees or charges, by or on behalf of such organization for such purpose; and

(dddd) all sales of tangible personal property and services purchased by sheltered living, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing residential and day services for people with developmental disabilities or mental retardation, or both, and all sales of any such property by or on behalf of sheltered living, inc. for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling homes and facilities for sheltered living, inc. for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by sheltered living, inc. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities for sheltered living, inc. When sheltered living, inc. contracts for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to sheltered living, inc. a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, sheltered living, inc. shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto" .:

And by renumbering the remaining sections accordingly;

Also on page 11, in line 7, by striking "is" and inserting "and 79-3606 are";

On page 1, in the title, in line 10, after the semicolon, by inserting "exemptions"; also in line 10, after "79-3602" by inserting "and 79-3606"; in line 11, by striking "section" and inserting "sections", and **HB 2172** be passed as amended.

Sub for HB 2008 be amended by motion Senator Vratil, on page 3, lines 9 and 10, by striking the phrase "or under the supervision and direction of a professional nurse" and leaving the period., and **Sub for HB 2008** be passed as amended.

SB 324 be amended by adoption of the committee amendments, be further amended by motion of Senator Huelskamp on page 4, in line 10, after "agencies" by inserting "including, but not limited to, programs that promote new homestead opportunities for individuals, new incentives for businesses to expand or relocate and general business development," and **SB 324** be passed as further amended.

HB 2214 be amended by adoption of the committee amendments, be further amended by motion of Senator Barnett, on page 26, following line 35, by inserting the following:

"Sec. 26. K.S.A. 2008 Supp. 40-2209 is hereby amended to read as follows: 40-2209. (a) (1) Group sickness and accident insurance is declared to be that form of sickness and accident insurance covering groups of persons, with or without one or more members of their families or one or more dependents. Except at the option of the employee or member and except employees or members enrolling in a group policy after the close of an open enrollment opportunity, no individual employee or member of an insured group and no individual dependent or family member may be excluded from eligibility or coverage under a policy providing hospital, medical or surgical expense benefits both with respect to policies issued or renewed within this state and with respect to policies issued or surging in this state. For purposes of this section, an open enrollment opportunity shall be deemed to be a period no less favorable than a period beginning on the employee's or member's date of initial eligibility and ending 31 days thereafter.

(2) An eligible employee, member or dependent who requests enrollment following the open enrollment opportunity or any special enrollment period for dependents as specified

in subsection (3) shall be considered a late enrollee. An accident and sickness insurer may exclude a late enrollee, except during an open enrollment period. However, an eligible employee, member or dependent shall not be considered a late enrollee if:

(A) The individual:

(i) Was covered under another group policy which provided hospital, medical or surgical expense benefits or was covered under section 607(1) of the employee retirement income security act of 1974 (ERISA) at the time the individual was eligible to enroll;

(ii) states in writing, at the time of the open enrollment period, that coverage under another group policy which provided hospital, medical or surgical expense benefits was the reason for declining enrollment, but only if the group policyholder or the accident and sickness insurer required such a written statement and provided the individual with notice of the requirement for a written statement and the consequences of such written statement;

(iii) has lost coverage under another group policy providing hospital, medical or surgical expense benefits or under section 607(1) of the employee retirement income security act of 1974 (ERISA) as a result of the termination of employment, reduction in the number of hours of employment, termination of employer contributions toward such coverage, the termination of the other policy's coverage, death of a spouse or divorce or legal separation or was under a COBRA continuation provision and the coverage under such provision was exhausted; and

(iv) requests enrollment within 30 days after the termination of coverage under the other policy; or

(B) a court has ordered coverage to be provided for a spouse or minor child under a covered employee's or member's policy.

(3) (A) If an accident and sickness insurer issues a group policy providing hospital, medical or surgical expenses and makes coverage available to a dependent of an eligible employee or member and such dependent becomes a dependent of the employee or member through marriage, birth, adoption or placement for adoption, then such group policy shall provide for a dependent special enrollment period as described in subsection (3)(B) of this section during which the dependent may be enrolled under the policy and in the case of the birth or adoption of a child, the spouse of an eligible employee or member may be enrolled if otherwise eligible for coverage.

(B) A dependent special enrollment period under this subsection shall be a period of not less than 30 days and shall begin on the later of (i) the date such dependent coverage is made available, or (ii) the date of the marriage, birth or adoption or placement for adoption.

(C) If an eligible employee or member seeks to enroll a dependent during the first 30 days of such a dependent special enrollment period, the coverage of the dependent shall become effective: (i) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received; (ii) in the case of the birth of a dependent, as of the date of such birth; or (iii) in the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

(4) (A) No group policy providing hospital, medical or surgical expense benefits issued or renewed within this state or issued or renewed outside this state covering residents within this state shall limit or exclude benefits for specific conditions existing at or prior to the effective date of coverage thereunder. Such policy may impose a preexisting conditions exclusion, not to exceed 90 days following the date of enrollment for benefits for conditions whether mental or physical, regardless of the cause of the condition for which medical advice, diagnosis, care or treatment was recommended or received in the 90 days prior to the effective date of enrollment. Any preexisting conditions exclusion shall run concurrently with any waiting period.

(B) Such policy may impose a waiting period after full-time employment starts before an employee is first eligible to enroll in any applicable group policy.

(C) A health maintenance organization which offers such policy which does not impose any preexisting conditions exclusion may impose an affiliation period for such coverage, provided that: (i) such application period is applied uniformly without regard to any health status related factors and (ii) such affiliation period does not exceed two months. The affiliation period shall run concurrently with any waiting period under the plan. (D) A health maintenance organization may use alternative methods from those described in this subsection to address adverse selection if approved by the commissioner.

(E) For the purposes of this section, the term "preexisting conditions exclusion" shall mean, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage whether or not any medical advice, diagnosis, care or treatment was recommended or received before such date.

(F) For the purposes of this section, the term "date of enrollment" means the date the individual is enrolled under the group policy or, if earlier, the first day of the waiting period for such enrollment.

(G) For the purposes of this section, the term "waiting period" means with respect to a group policy the period which must pass before the individual is eligible to be covered for benefits under the terms of the policy.

(5) Genetic information shall not be treated as a preexisting condition in the absence of a diagnosis of the condition related to such information.

(6) A group policy providing hospital, medical or surgical expense benefits may not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition.

(7) A group policy providing hospital, medical or surgical expense benefits may not impose any preexisting condition waiting period in the case of a child who is adopted or placed for adoption before attaining 18 years of age and who, as of the last day of a 30-day period beginning on the date of the adoption or placement for adoption, is covered by a policy specified in subsection (a). This subsection shall not apply to coverage before the date of such adoption or placement for adoption.

(8) Such policy shall waive such a preexisting conditions exclusion to the extent the employee or member or individual dependent or family member was covered by (A) a group or individual sickness and accident policy, (B) coverage under section 607(1) of the employees retirement income security act of 1974 (ERISA), (C) a group specified in K.S.A. 40-2222 and amendments thereto, (D) part A or part B of title XVIII of the social security act, (E) title XIX of the social security act, other than coverage consisting solely of benefits under section 1928, (F) a state children's health insurance program established pursuant to title XXI of the social security act, (G) chapter 55 of title 10 United States code, (H) a medical care program of the Indian health service or of a tribal organization, (I) the Kansas uninsurable health plan act pursuant to K.S.A. 40-2217 et seq. and amendments thereto or a similar health benefits risk pool of another state, (J) a health plan offered under chapter 89 of title 5, United States code, (K) a health benefit plan under section 5(e) of the peace corps act (22 U.S.C. 2504(e)), or (L) a group subject to K.S.A. 12-2616 et seq. and amendments thereto which provided hospital, medical and surgical expense benefits within 63 days prior to the effective date of coverage with no gap in coverage. A group policy shall credit the periods of prior coverage specified in subsection (a)(7) without regard to the specific benefits covered during the period of prior coverage. Any period that the employee or member is in a waiting period for any coverage under a group health plan or is in an affiliation period shall not be taken into account in determining the continuous period under this subsection.

(b) (1) An accident and sickness insurer which offers group policies providing hospital, medical or surgical expense benefits shall provide a certification as described in subsection (b)(2): (A) At the time an eligible employee, member or dependent ceases to be covered under such policy or otherwise becomes covered under a COBRA continuation provision; (B) in the case of an eligible employee, member or dependent being covered under a COBRA continuation provision, at the time such eligible employee, member or dependent being covered under a COBRA continuation provision, at the time such eligible employee, member or dependent member or dependent ceases to be covered under a COBRA continuation provision; and (C) on the request on behalf of such eligible employee, member or dependent made not later than 24 months after the date of the cessation of the coverage described in subsection (b)(1) (A) or (b)(1) (B), whichever is later.

(2) The certification described in this subsection is a written certification of (A) the period of coverage under a policy specified in subsection (a) and any coverage under such COBRA continuation provision, and (B) any waiting period imposed with respect to the eligible employee, member or dependent for any coverage under such policy.

(c) Any group policy may impose participation requirements, define full-time employees or members and otherwise be designed for the group as a whole through negotiations between the group sponsor and the insurer to the extent such design is not contrary to or inconsistent with this act.

(d) (1) An accident and sickness insurer offering a group policy providing hospital, medical or surgical expense benefits must renew or continue in force such coverage at the option of the policyholder or certificateholder except as provided in paragraph (2) below.

(2) An accident and sickness insurer may nonrenew or discontinue coverage under a group policy providing hospital, medical or surgical expense benefits based only on one or more of the following circumstances:

(A) If the policyholder or certificateholder has failed to pay any premium or contributions in accordance with the terms of the group policy providing hospital, medical or surgical expense benefits or the accident and sickness insurer has not received timely premium payments;

(B) if the policyholder or certificateholder has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of such coverage;

(C) if the policyholder or certificateholder has failed to comply with a material plan provision relating to employer contribution or group participation rules;

(D) if the accident and sickness insurer is ceasing to offer coverage in such group market in accordance with subsections (d)(3) or (d)(4);

(E) in the case of accident and sickness insurer that offers coverage under a policy providing hospital, medical or surgical expense benefits through an enrollment area, there is no longer any eligible employee, member or dependent in connection with such policy who lives, resides or works in the medical service enrollment area of the accident and sickness insurer or in the area for which the accident and sickness insurer is authorized to do business; or

(F) in the case of a group policy providing hospital, medical or surgical expense benefits which is offered through an association or trust pursuant to subsections (f)(3) or (f)(5), the membership of the employer in such association or trust ceases but only if such coverage is terminated uniformly without regard to any health status related factor relating to any eligible employee, member or dependent.

(3) In any case in which an accident and sickness insurer which offers a group policy providing hospital, medical or surgical expense benefits decides to discontinue offering such type of group policy, such coverage may be discontinued only if:

(A) The accident and sickness insurer notifies all policyholders and certificateholders and all eligible employees or members of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

(B) the accident and sickness insurer offers to each policyholder who is provided such group policy providing hospital, medical or surgical expense benefits which is being discontinued the option to purchase any other group policy providing hospital, medical or surgical expense benefits currently being offered by such accident and sickness insurer; and

(C) in exercising the option to discontinue coverage and in offering the option of coverage under subparagraph (B), the accident and sickness insurer acts uniformly without regard to the claims experience of those policyholders or certificateholders or any health status related factors relating to any eligible employee, member or dependent covered by such group policy or new employees or members who may become eligible for such coverage.

(4) If the accident and sickness insurer elects to discontinue offering group policies providing hospital, medical or surgical expense benefits or group coverage to a small employer pursuant to K.S.A. 40-2209f and amendments thereto, such coverage may be discontinued only if:

(A) The accident and sickness insurer provides notice to the insurance commissioner, to all policyholders or certificateholders and to all eligible employees and members covered by such group policy providing hospital, medical or surgical expense benefits at least 180 days prior to the date of the discontinuation of such coverage; (B) all group policies providing hospital, medical or surgical expense benefits offered by such accident and sickness insurer are discontinued and coverage under such policies are not renewed; and

(C) the accident and sickness insurer may not provide for the issuance of any group policies providing hospital, medical or surgical expense benefits in the discontinued market during a five year period beginning on the date of the discontinuation of the last such group policy which is nonrenewed.

(e) An accident and sickness insurer offering a group policy providing hospital, medical or surgical expense benefits may not establish rules for eligibility (including continued eligibility) of any employee, member or dependent to enroll under the terms of the group policy based on any of the following factors in relation to the eligible employee, member or dependent: (A) Health status, (B) medical condition, including both physical and mental illness, (C) claims experience, (D) receipt of health care, (E) medical history, (F) genetic information, (G) evidence of insurability, including conditions arising out of acts of domestic violence, or (H) disability. This subsection shall not be construed to require a policy providing hospital, medical or surgical expense benefits to provide particular benefits other than those provided under the terms of such group policy or to prevent a group policy providing hospital, medical or surgical expense benefits from establishing limitations or restrictions on the amount, level, extent or nature of the benefits or coverage for similarly situated individuals enrolled under the group policy.

(f) Group accident and health insurance may be offered to a group under the following basis:

(1) Under a policy issued to an employer or trustees of a fund established by an employer, who is the policyholder, insuring at least two employees of such employer, for the benefit of persons other than the employer. The term "employees" shall include the officers, managers, employees and retired employees of the employer, the partners, if the employer is an individual proprietorship, the officers, managers and employees and retired employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners, employees and retired employees of which and of the insured employer is under common control through stock ownership contract, or otherwise. The policy may provide that the term "employees" and rusteeship. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

(2) Under a policy issued to a labor union which shall have a constitution and bylaws insuring at least 25 members of such union.

(3) Under a policy issued to the trustees of a fund established by two or more employers or business associations or by one or more labor unions or by one or more employees and one or more labor unions, which trustees shall be the policyholder, to insure employees of the employers or members of the union or members of the association for the benefit of persons other than the employers or the unions or the associations. The term "employees" shall include the officers, managers, employees and retired employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partners. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(4) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements: (a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments, or all of any class or classes determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. (b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or from both.

(5) A policy issued to an association which has been organized and is maintained for the purposes other than that of obtaining insurance, insuring at least 25 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" shall include retired employees. The pre-

miums for the policies shall be paid by the policyholder, either wholly from association funds, or funds contributed by the members of such association or by employees of such members or any combination thereof.

(6) Under a policy issued to any other type of group which the commissioner of insurance may find is properly subject to the issuance of a group sickness and accident policy or contract.

(g) Each such policy shall contain in substance: (1) A provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or the insured's beneficiary.

(2) A provision setting forth the conditions under which an individual's coverage terminates under the policy, including the age, if any, to which an individual's coverage under the policy shall be limited, or, the age, if any, at which any additional limitations or restrictions are placed upon an individual's coverage under the policy.

(3) Provisions setting forth the notice of claim, proofs of loss and claim forms, physical examination and autopsy, time of payment of claims, to whom benefits are payable, payment of claims, change of beneficiary, and legal action requirements. Such provisions shall not be less favorable to the individual insured or the insured's beneficiary than those corresponding policy provisions required to be contained in individual accident and sickness policies.

(4) A provision that the insurer will furnish to the policyholder, for the delivery to each employee or member of the insured group, an individual certificate approved by the commissioner of insurance setting forth in summary form a statement of the essential features of the insurance coverage of such employee or member, the procedure to be followed in making claim under the policy and to whom benefits are payable. Such certificate shall also contain a summary of those provisions required under paragraphs (2) and (3) of this subsection (g) in addition to the other essential features of the insurance coverage. If dependents are included in the coverage, only one certificate need be issued for each family unit.

(h) No group disability income policy which integrates benefits with social security benefits, shall provide that the amount of any disability benefit actually being paid to the disabled person shall be reduced by changes in the level of social security benefits resulting either from changes in the social security law or due to cost of living adjustments which become effective after the first day for which disability benefits become payable.

(i) A group policy of insurance delivered or issued for delivery or renewed which provides hospital, surgical or major medical expense insurance, or any combination of these coverages, on an expense incurred basis, shall provide that an employee or member or such employee's or member's covered dependents whose insurance under the group policy has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy or under any group policy providing similar benefits which it replaces for at least three months immediately prior to termination, shall be entitled to have such coverage nonetheless continued under the group policy for a period of 18 months and have issued to the employee or member or such employee's or member's covered dependents by the insurer, at the end of such eighteen-month period of continuation, a policy of health insurance which conforms to the applicable requirements specified in this subsection. This requirement shall not apply to a group policy which provides benefits for specific diseases or for accidental injuries only or a group policy issued to an employer subject to the continuation and conversion obligations set forth at title I, subtitle B, part 6 of the employee retirement income security act of 1974 or at title XXII of the public health service act, as each act was in effect on January 1, 1987 to the extent federal law provides the employee or member or such employee's or member's covered dependents with equal or greater continuation or conversion rights; or an employee or member or such employee's or member's covered dependents shall not be entitled to have such coverage continued or a converted policy issued to the employee or member or such employee's or member's covered dependents if termination of the insurance under the group policy occurred because:

(1) The employee or member or such employee's or member's covered dependents failed to pay any required contribution after receiving reasonable notice of such required contribution from the insurer in accordance with rules and regulations adopted by the commissioner of insurance; (2) any discontinued group coverage was replaced by similar group coverage within 31 days; (3) the employee or member is or could be covered by medicare (title XVIII of the United States social security act as added by the social security amendments of 1965 or as later amended or superseded); (4) the employee or member is or could be covered to the same extent by any other insured or lawful self-insured arrangement which provides expense incurred hospital, surgical or medical coverage and benefits for individuals in a group under which the person was not covered prior to such termination; or (5) coverage for the employee or member, or any covered dependent thereof, was terminated for cause as permitted by the group policy or certificate of coverage approved by the commissioner. In the event the group policy is terminated and not replaced the insurer may issue an individual policy or certificate in lieu of a conversion policy or the continuation of group coverage required herein if the individual policy or certificate provides substantially similar coverage for the same or less premium as the group policy. In any event, the employee or member shall have the option to be issued a conversion policy which meets the requirements set forth in this subsection in lieu of the right to continue group coverage.

(j) The continued coverage and the issuance of a converted policy shall be subject to the following conditions:

(1) Written application for the converted policy shall be made and the first premium paid to the insurer not later than 31 days after termination of coverage under the group policy or not later than 31 days after notice is received pursuant to paragraph (20) of this subsection.

(2) The converted policy shall be issued without evidence of insurability.

(3) The employer insurance carrier shall give the employee and such employee's covered dependents reasonable notice of the right to continuation of coverage. The terminated employee or member shall pay to the employer insurance carrier the premium for the eighteenmonth continuation of coverage and such premium shall be the same as that applicable to members or employees remaining in the group. Failure to pay such premium shall terminate coverage under the group policy at the end of the period for which the premium has been paid. The premium rate charged for converted policies issued subsequent to the period of continued coverage shall be such that can be expected to produce an anticipated loss ratio of not less than 80% based upon conversion, morbidity and reasonable assumptions for expected trends in medical care costs. In the event the group policy is terminated and is not replaced, converted policies may be issued at self-sustaining rates that are not unreasonable in relation to the coverage provided based on conversion, morbidity and reasonable assumptions for expected trends in medical care costs. The frequency of premium payment shall be the frequency customarily required by the insurer for the policy form and plan selected, provided that the insurer shall not require premium payments less frequently than quarterly.

(4) The effective date of the converted policy shall be the day following the termination of insurance under the group policy.

(5) The converted policy shall cover the employee or member and the employee's or member's dependents who were covered by the group policy on the date of termination of insurance. At the option of the insurer, a separate converted policy may be issued to cover any dependent.

(6) The insurer shall not be required to issue a converted policy covering any person if such person is or could be covered by medicare (title XVIII of the United States social security act as added by the social security amendments of 1965 or as later amended or superseded). Furthermore, the insurer shall not be required to issue a converted policy covering any person if:

(A) (i) Such person is covered for similar benefits by another hospital, surgical, medical or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program, or

(ii) such person is eligible for similar benefits (whether or not covered therefor) under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis, or

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(iii) similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of any state or federal law, and

(B) the benefits provided under the sources referred to in clause (A) (i) above for such person or benefits provided or available under the sources referred to in clauses (A) (ii) and (A) (iii) above for such person, together with the benefits provided by the converted policy, would result in over-insurance according to the insurer's standards. The insurer's standards must bear some reasonable relationship to actual health care costs in the area in which the insured lives at the time of conversion and must be filed with the commissioner of insurance prior to their use in denying coverage.

(7) A converted policy may include a provision whereby the insurer may request information in advance of any premium due date of such policy of any person covered as to whether:

(A) Such person is covered for similar benefits by another hospital, surgical, medical or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program;

(B) such person is covered for similar benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis; or

(C) similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of any state or federal law.

(8) The converted policy may provide that the insurer may refuse to renew the policy and the coverage of any person insured for the following reasons only:

(A) Either the benefits provided under the sources referred to in clauses (A)(i) and (A)(ii) of paragraph (6) for such person or benefits provided or available under the sources referred to in clause (A)(iii) of paragraph (6) for such person, together with the benefits provided by the converted policy, would result in over-insurance according to the insurer's standards on file with the commissioner of insurance, or the converted policyholder fails to provide the requested information;

(B) fraud or material misrepresentation in applying for any benefits under the converted policy; or

(C) other reasons approved by the commissioner of insurance.

(9) An insurer shall not be required to issue a converted policy which provides coverage and benefits in excess of those provided under the group policy from which conversion is made.

(10) If the converted policy provides that any hospital, surgical or medical benefits payable may be reduced by the amount of any such benefits payable under the group policy after the termination of the individual's insurance or the converted policy includes provisions so that during the first policy year the benefits payable under the converted policy, together with the benefits payable under the group policy, shall not exceed those that would have been payable had the individual's insurance under the group policy remained in force and effect, the converted policy shall provide credit for deductibles, copayments and other conditions satisfied under the group policy.

(11) Subject to the provisions and conditions of this act, if the group insurance policy from which conversion is made insures the employee or member for major medical expense insurance, the employee or member shall be entitled to obtain a converted policy providing catastrophic or major medical coverage under a plan meeting the following requirements:

(A) A maximum benefit at least equal to either, at the option of the insurer, paragraphs (i) or (ii) below:

(i) The smaller of the following amounts:

The maximum benefit provided under the group policy or a maximum payment of \$250,000 per covered person for all covered medical expenses incurred during the covered person's lifetime.

(ii) The smaller of the following amounts:

The maximum benefit provided under the group policy or a maximum payment of \$250,000 for each unrelated injury or sickness.

(B) Payment of benefits at the rate of 80% of covered medical expenses which are in excess of the deductible, until 20% of such expenses in a benefit period reaches \$1,000, after which benefits will be paid at the rate of 100% during the remainder of such benefit

period. Payment of benefits for outpatient treatment of mental illness, if provided in the converted policy, may be at a lesser rate but not less than 50%.

(C) A deductible for each benefit period which, at the option of the insurer, shall be (i) the sum of the benefits deductible and \$100, or (ii) the corresponding deductible in the group policy. The term "benefits deductible," as used herein, means the value of any benefits provided on an expense incurred basis which are provided with respect to covered medical expenses by any other hospital, surgical, or medical insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan, or any other plan or program whether on an insured or uninsured basis, or in accordance with the requirements of any state or federal law and, if pursuant to the conditions of paragraph (13), the converted policy provides both basic hospital or surgical coverage and major medical coverage, the value of such basic benefits.

If the maximum benefit is determined by clause (A)(ii) of this paragraph, the insurer may require that the deductible be satisfied during a period of not less than three months if the deductible is \$100 or less, and not less than six months if the deductible exceeds \$100.

(D) The benefit period shall be each calendar year when the maximum benefit is determined by clause (A)(i) of this paragraph or 24 months when the maximum benefit is determined by clause (A)(ii) of this paragraph.

(E) The term "covered medical expenses," as used above, shall include at least, in the case of hospital room and board charges 80% of the average semiprivate room and board rate for the hospital in which the individual is confined and twice such amount for charges in an intensive care unit. Any surgical schedule shall be consistent with those customarily offered by the insurer under group or individual health insurance policies and must provide at least a \$1,200 maximum benefit.

(12) The conversion privilege required by this act shall, if the group insurance policy insures the employee or member for basic hospital or surgical expense insurance as well as major medical expense insurance, make available the plans of benefits set forth in paragraph (11). At the option of the insurer, such plans of benefits may be provided under one policy.

The insurer may also, in lieu of the plans of benefits set forth in paragraph (11), provide a policy of comprehensive medical expense benefits without first dollar coverage. The policy shall conform to the requirements of paragraph (11). An insurer electing to provide such a policy shall make available a low deductible option, not to exceed \$100, a high deductible option between \$500 and \$1,000, and a third deductible option midway between the high and low deductible options.

 $\left(13\right)$ The insurer, at its option, may also offer alternative plans for group health conversion in addition to those required by this act.

(14) In the event coverage would be continued under the group policy on an employee following the employee's retirement prior to the time the employee is or could be covered by medicare, the employee may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had such person's insurance terminated at retirement by reason of termination of employment or membership.

(15) The converted policy may provide for reduction of coverage on any person upon such person's eligibility for coverage under medicare (title XVIII of the United States social security act as added by the social security amendments of 1965 or as later amended or superseded) or under any other state or federal law providing for benefits similar to those provided by the converted policy.

(16) Subject to the conditions set forth above, the continuation and conversion privileges shall also be available:

(A) To the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and such children whose coverage under the group policy terminates by reason of such death, otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or, if the group policy provides for continuation of dependents' coverage following the employee's or member's death, at the end of such continuation;

(B) to the spouse of the employee or member upon termination of coverage of the spouse, while the employee or member remains insured under the group policy, by reason of ceasing

to be a qualified family member under the group policy, with respect to the spouse and such children whose coverage under the group policy terminates at the same time; or

(C) to a child solely with respect to such child upon termination of such coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided above with respect to such termination.

(17) The insurer may elect to provide group insurance coverage which complies with this act in lieu of the issuance of a converted individual policy.

 $\left(18\right)$ A notification of the conversion privilege shall be included in each certificate of coverage.

(19) A converted policy which is delivered outside this state must be on a form which could be delivered in such other jurisdiction as a converted policy had the group policy been issued in that jurisdiction.

(20) The insurer shall give the employee or member and such employee's or member's covered dependents: (A) Reasonable notice of the right to convert at least once during the eighteen-month continuation period; or (B) for persons covered under 29 U.S.C. 1161 et seq., notice of the right to a conversion policy required by this subsection (d) shall be given at least 30 days prior to the end of the continuation period provided by 29 U.S.C. 1161 et seq. or from the date the employer ceases to provide any similar group health plan to any employee. Such notices shall be provided in accordance with rules and regulations adopted by the commissioner of insurance.

(k) (1) No policy issued by an insurer to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

(2) Violation of this subsection shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

(1) The commissioner is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this section.

Sec. 27. K.S.A. 2008 Supp. 40-3209 is hereby amended to read as follows: 40-3209. (a) All forms of group and individual certificates of coverage and contracts issued by the organization to enrollees or other marketing documents purporting to describe the organization's health care services shall contain as a minimum:

(1) A complete description of the health care services and other benefits to which the enrollee is entitled;

(2) The locations of all facilities, the hours of operation and the services which are provided in each facility in the case of individual practice associations or medical staff and group practices, and, in all other cases, a list of providers by specialty with a list of addresses and telephone numbers;

(3) the financial responsibilities of the enrollee and the amount of any deductible, copayment or coinsurance required;

(4) all exclusions and limitations on services or any other benefits to be provided including any deductible or copayment feature and all restrictions relating to pre-existing conditions;

(5) all criteria by which an enrollee may be disenrolled or denied reenrollment;

(6) service priorities in case of epidemic, or other emergency conditions affecting demand for medical services;

(7) in the case of a health maintenance organization, a provision that an enrollee or a covered dependent of an enrollee whose coverage under a health maintenance organization group contract has been terminated for any reason but who remains in the service area and who has been continuously covered by the health maintenance organization or under any group policy providing similar benefits which it replaces for at least three months immediately prior to termination shall be entitled to obtain a converted contract or have such coverage continued under the group contract for a period of 18 months following which such enrollee or dependent shall be entitled to obtain a converted contract in accordance with the provisions of this section. The <u>employer insurance carrier</u> shall give the employee and such employee shall pay the <u>employer insurance carrier</u> the premium for the continuation of coverage and such premium shall be the same as that applicable to members

or employees remaining in the group. The converted contract shall provide coverage at least equal to the conversion coverage options generally available from insurers or mutual nonprofit hospital and medical service corporations in the service area at the applicable premium cost. The group enrollee or enrollees shall be solely responsible for paying the premiums for the alternative coverage. The frequency of premium payment shall be the frequency customarily required by the health maintenance organization, mutual nonprofit hospital and medical service corporation or insurer for the policy form and plan selected, except that the insurer, mutual nonprofit hospital and medical service corporation or health maintenance organization shall require premium payments at least quarterly. The coverage shall be available to all enrollees of any group without medical underwriting. The requirement imposed by this subsection shall not apply to a contract which provides benefits for specific diseases or for accidental injuries only, nor shall it apply to any employee or member or such employee's or member's covered dependents when:

(A) Such person was terminated for cause as permitted by the group contract approved by the commissioner;

(B) any discontinued group coverage was replaced by similar group coverage within 31 days; or

(C) the employee or member is or could be covered by any other insured or noninsured arrangement which provides expense incurred hospital, surgical or medical coverage and benefits for individuals in a group under which the person was not covered prior to such termination. Written application for the converted contract shall be made and the first premium paid not later than 31 days after termination of the group coverage or receipt of notice of conversion rights from the health maintenance organization, whichever is later, and shall become effective the day following the termination of coverage under the group contract. The health maintenance organization shall give the employee or member and such employee's or member's covered dependents reasonable notice of the right to convert at least once within 30 days of termination of coverage under the group contract. The group contract and certificates may include provisions necessary to identify or obtain identification of persons and notification of events that would activate the notice requirements and conversion rights created by this section but such requirements and rights shall not be invalidated by failure of persons other than the employee or member entitled to conversion to comply with any such provisions. In addition, the converted contract shall be subject to the provisions contained in paragraphs (2), (4), (5), (6), (7), (8), (9), (13), (14), (15), (16), (17) and (19) of subsection (j) of K.S.A. 40-2209, and amendments thereto;

(8) (A) group contracts shall contain a provision extending payment of such benefits until discharged or for a period not less than 31 days following the expiration date of the contract, whichever is earlier, for covered enrollees and dependents confined in a hospital on the date of termination;

(B) a provision that coverage under any subsequent replacement contract that is intended to afford continuous coverage will commence immediately following expiration of any prior contract with respect to covered services not provided pursuant to subparagraph (8)(A); and

(9) an individual contract shall provide for a 10-day period for the enrollee to examine and return the contract and have the premium refunded, but if services were received by the enrollee during the 10-day period, and the enrollee returns the contract to receive a refund of the premium paid, the enrollee must pay for such services.

(b) No health maintenance organization or medicare provider organization authorized under this act shall contract with any provider under provisions which require enrollees to guarantee payment, other than copayments and deductibles, to such provider in the event of nonpayment by the health maintenance organization or medicare provider organization for any services which have been performed under contracts between such enrollees and the health maintenance organization or medicare provider organization. Further, any contract between a health maintenance organization or medicare provider organization and a provider shall provide that if the health maintenance organization or medicare provider organization fails to pay for covered health care services as set forth in the contract between the health maintenance organization or medicare provider for any amounts owed by the health maintenance organization or medicare provider for any amounts owed

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written contract between the health maintenance organization or medicare provider organization and the provider or if the written contract fails to include the above provision, the enrollee and dependents are not liable to any provider for any amounts owed by the health maintenance organization or medicare provider organization. Any action by a provider to collect or attempt to collect from a subscriber or enrollee any sum owed by the health maintenance organization to a provider shall be deemed to be an unconscionable act within the meaning of K.S.A. 50-627 and amendments thereto.

(c) No group or individual certificate of coverage or contract form or amendment to an approved certificate of coverage or contract form shall be issued unless it is filed with the commissioner. Such contract form or amendment shall become effective within 30 days of such filing unless the commissioner finds that such contract form or amendment does not comply with the requirements of this section.

(d) Every contract shall include a clear and understandable description of the health maintenance organization's or medicare provider organization's method for resolving enrollee grievances.

(e) The provisions of subsections (A), (B), (C), (D) and (E) of K.S.A. 40-2209 and 40-2215 and amendments thereto shall apply to all contracts issued under this section, and the provisions of such sections shall apply to health maintenance organizations.

(f) In lieu of any of the requirements of subsection (a), the commissioner may accept certificates of coverage issued by a medicare provider organization in conformity with requirements imposed by any appropriate federal regulatory agency.";

And by renumbering sections accordingly;

Also on page 26, in line 37, by striking "and 40-433" and inserting ", 40-433, 40-2209 and 40-3209";

In the title, in line 12, by striking "and 40-2258" and inserting ", 40-2209, 40-2258 and 40-3209", and **HB 2214** be passed as further amended.

HB 2292 be amended by adoption of the committee amendments, be further amended by motion of Senator Teichman, on page 18, in line 43, by striking "or" where it appears for the second time;

On page 19, in line 5, by striking the period and inserting "; or

(D) services performed by a person licensed pursuant to the Kansas mortgage business act, K.S.A. 9-2201 et seq., and amendments thereto, or licensed pursuant to the Kansas consumer credit code, K.S.A. 16a-1-101 et seq., and amendments thereto.", and **HB 2292** be passed as further amended.

HB 2299 be amended by adoption of the committee amendments, be further amended by motion of Senator V. Schmidt, on page 38, in line 33, by striking "and"; in line 38, after "county" by inserting "; and

(iiii) all sales of tangible personal property and services purchased by sheltered living, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing residential and day services for people with developmental disabilities or mental retardation, or both, and all sales of any such property by or on behalf of sheltered living, inc. for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling homes and facilities for sheltered living, inc. for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by sheltered living, inc. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities for sheltered living, inc. When sheltered living, inc. contracts for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to sheltered living, inc. a sworn statement, on a form to

be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, sheltered living, inc. shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto", and HB 2299 be passed as further amended. On a motion of Senator Wagle HB 2299 was re-referred to the Committee on Assessment and Taxation.

S Sub HB 2126; HB 2324 be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and SB 92, SB 94, SB 146, SB 201; Sub SB 220; SB 268, SB 298, SB 316, SB 324; SCR 1602, SCR 1614; Sub HB 2008, Sub HB 2050; HB 2172, HB 2201, HB 2214; S Sub for HB 2219; HB 2258, HB 2292 were advanced to Final Action and roll call.

SB 92, An act concerning the Kansas code for care of children; relating to jurisdiction; amending K.S.A. 2008 Supp. 38-2202 and 38-2203 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 94, An act concerning the Kansas code for care of children; relating to placement of children into custody; amending K.S.A. 2008 Supp. 38-2232, 38-2242, 38-2243 and 38-2255 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 146, An act concerning state officers and employees; relating to furloughs or reduction in compensation; the Kansas public employees retirement system, computation of benefits; amending K.S.A. 74-49,115 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, PilcherCook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 201, An act concerning the display of the flag of the United States at half-staff.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

Sub SB 220, An act concerning emergency medical services; amending K.S.A. 65-6110, 65-6126, 65-6127, 65-6132, 65-6133 and 65-6135 and K.S.A. 2008 Supp. 65-6112 and 65-6124 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The substitute bill passed.

SB 268, An act concerning elections; amending K.S.A. 2008 Supp. 25-1216 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 298, An act concerning oil and gas; relating to the state corporation commission regulation of certain wells; amending K.S.A. 55-165 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 316, An act concerning chemigation safety; relating to application of swine waste; amending K.S.A. 2008 Supp. 2-3318 and 65-1,182 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SB 324, An act concerning the Kansas commission on rural policy; amending K.S.A. 2008 Supp. 74-99e02, 74-99e03 and 74-99e04 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

SCR 1602, A proposition to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the classification and taxation of watercraft.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Haley.

A two-thirds constitutional majority having voted in favor of the resolution **SCR 1602** was adopted as amended.

SCR 1614. A proposition to amend article 11 of the constitution of the state of Kansas by adding a new section thereto, concerning a budget stabilization fund in the state treasury.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee.

A two-thirds constitutional majority having voted in favor of the resolution SCR 1614 was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I support a constitutional amendment which would help protect Kansans in times of crisis. We should have learned in the 90's and after 9/11. If we had an emergency fund, we could better protect schools and the most vulnerable. Kansas is only one of a few states that does not have a rainy day fund, and consequently we are in a bigger budget crisis than most states. A rainy day fund would mitigate the pressures to increase taxes and cut safety net programs in the heat of a recession.

Every family should have an emergency fund. Kansas should as well. There is no better day to prepare for the next crisis than now. A rainy day fund would not harm the current state budget as it has appropriate safety valves and would not take effect until 2011. A rainy day fund is essential to fiscal responsibility, getting out of the recession, keeping taxes low, and protecting schools and the most vulnerable.—JEFF COLYER

Senators Abrams, Apple, Barnett, Emler, Lynn, Petersen and Vratil request the record to show they concur with the "Explanation of Vote" offered by Senator Colyer on **SCR 1614**.

MR. PRESIDENT: I vote No on **SCR 1614.** While I believe it would be good public policy for our State to have a budget stabilization fund, the process provided by **SCR 1614** makes no fiscal sense. **SCR 1614** requires the State to put aside millions of dollars each year without regard for revenue intake. If implemented this year, when we are struggling to find enough dollars to fund vital services for our most vulnerable citizens, to provide access to health care for our poorest Kansans, and to keep our public safety programs viable, we would have had to make even more draconian cuts. I offered an amendment that would have established a budget stabilization fund with transfers made any year the State experienced an increase over the previous year's revenues. If that amendment had passed, I would have been an enthusiastic supporter of **SCR 1614.**—LAURA KELLY

Senator Francisco requests the record to show she concurs with the "Explanation of Vote" offered by Senator Kelly on SCR 1614.

MR. PRESIDENT: I vote no on **Senate Concurrent Resolution 1614**, which should be referred to as the 2009 budget destabilization bill. Instead of returning unused state tax dollars to hardworking Kansans, this bill will mandate that millions of dollars be placed into an interest-bearing fund—a fund which will not be made available to reimburse local taxpayers or to the state for maintaining vital programs and services. These transfers will be made even when state revenues are declining.

Furthermore, **SCR 1614** would require a $\frac{3}{2}$ majority vote to transfer money out of the fund only when the balance exceeds 5 percent of total state revenues. It's likely that this mandatory 5 percent will not be met for at least 20 years.

SCR 1614 will only create an additional burden on the state legislature by further restricting its constitutional ability to collect and transfer money, even in times of need. Our founders created a representative democracy for a reason. In times of financial crisis it's vital that the legislature be able to make economic decisions that are in the best interest of our state and its residents without requiring an extraordinary majority.—JANIS LEE

Senators Hensley and Francisco request the record to show they concur with the "Explanation of Vote" offered by Senator Lee on **SCR 1614.**

Sub HB 2008, An act concerning epinephrine; relating to the administration thereof; authorizing the maintenance of epinephrine kits; amending K.S.A. 2008 Supp. 65-2872 and repealing the existing section.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wysong. Nays: Emler, Reitz, Taddiken.

Present and Passing: Lee.

The substitute bill passed, as amended.

Sub HB 2050, An act concerning water; relating to certain fees and disbursement thereof; concerning certain water permits; amending K.S.A. 2008 Supp. 82a-708a, 82a-708b, 82a-714 and 82a-727 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Pyle.

The substitute bill passed.

HB 2172, An act concerning sales taxation; relating to cash rebates on sales or leases of new motor vehicles; exemptions amending K.S.A. 2008 Supp. 79-3602, 79-3603 and 79-3606 and repealing the existing sections.

On roll call, the vote was: Yeas 30, Nays 7, Present and Passing 3, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Faust-Goudeau, Holland, Huelskamp, Kelsey, Kultala, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle.

Nays: Haley, Hensley, Lee, Owens, Reitz, Vratil, Wysong.

Present and Passing: Emler, Francisco, Kelly.

The bill passed, as amended.

HB 2201, An act concerning child support enforcement; relating to conditions placed on licensees; amending K.S.A. 74-147 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2214, An act relating to insurance; amending K.S.A. 2008 Supp. 40-2,105a, 40-2c01, 40-433, 40-2209, 40-2258 and 40-3209 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 40-2c01a.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Francisco, Holland, Huelskamp, Kelly, Kelsey, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Vratil, Wagle, Wysong.

Nays: Faust-Goudeau, Haley, Hensley, Kultala, Owens, Reitz, Umbarger. The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **HB 2214**, just as I voted no on **SB 260**, which has been incorporated into **HB 2214**. I don't have to tell you that we are experiencing down times here in the State of Kansas. Many people are losing their jobs. When people have to choose between paying the rent and buying groceries, of course, they are going to fall behind on some bills and their credit scores will be lowered. Raising premiums on the basis of those low credits scores only adds insult to injury. Due to that practice, I believe that we will have more and more uninsured drivers on our roads and highways, not because they are deadbeats but only because life has beaten them down for the moment. I have received numerous letters, e-mails, and phone calls about this issue this session, and it is a serious one. **HB 2214** will further damage the situation, stressing people's budgets even more, and I cannot support it.—OLETHA FAUST-GOUDEAU

S Sub for HB 2219. An act concerning retirement and pensions; relating to the Kansas public employees retirement system and sytems thereunder; purchase of service credit; state and school employer contribution rate; amending K.S.A. 2008 Supp. 74-4920 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The substitute bill passed.

HB 2258, An act relating to the vehicle dealers and manufacturers licensing act; providing for the licensing and regulation of certain dealers; amending K.S.A. 8-135c, 8-1,137, 8-2408, 8-2434 and 8-2436 and K.S.A. 2008 Supp. 8-2401 and 8-2404 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong. The bill passed, as amended.

HB 2292, An act concerning consumer credit; relating to security freeze on consumer reports; concerning certain consumer loan services; amending K.S.A. 50-1001, 50-1002, 50-1003, 50-1004, 50-1005, 50-1006, 50-1008, 50-1009, 50-1011, 50-1016, 50-1117, 50-1118, 50- 1119, 50-1121, 50-1122, 50-1124, 50-1125, 50-1126, 50-1128 and 50-1133 and K.S.A. 2008 Supp. 50-702 and 50-723 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Reitz.

The bill passed, as amended.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Tuesday, March 24, 2009.

Journal of the Senate

FIFTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS Tueday, March 24, 2009—10:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

During General Orders Senators address the Chair. There are at least two reasons For addressing the person there.

There has to be an authority Who keeps procedure in line. Senators addressing the Chair Help debates to remain benign.

O God, these rules of order Should be a model of what we do. The way that we treat each other Should be the same as we treat You.

The Lord sits on His Throne, And we can never afford To say something to each other That we should not say to the Lord.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were referred to Committees as indicated: Agriculture: **HB 2295**. Committee of the Whole: **SR 1859**. Public Health and Welfare: **HB 2310**, **HB 2366**. Transportation: **SCR 1617**. Ways and Means: **SB 330**.

MESSAGE FROM THE HOUSE

Announcing passage of **HCR 5018**. The House concurs in Senate amendments to **HB 2171**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HCR 5018 was thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Marshall introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1858-

A RESOLUTION in memory of Ray Shepherd.

WHEREAS, Ray Shepherd passed away Monday, March 2, 2009, at age 89. Mr. Shepherd is survived by his wife of 67 years, Mary; their son, David, and his wife Sharon; their daughter, Marilyn Warner and her husband Jim; their three grandchildren; and their two great-grandchildren; and

WHEREAS, Mr. Shepherd founded Ray Shepherd Motors in 1952 in Fort Scott, Kansas, which grew to become Shepherd Team Auto Plaza, serving thousands of customers from the area; and

WHEREAS, Mr. Shepherd's deep commitment to the Fort Scott community was demonstrated through his membership in First Christian Church, Rotary, Masonic Lodge, Scottish Rite and White Shrine; through serving as President of Fort Scott Industries and the Fort Scott Area Chamber of Commerce and as Chairman of Bourbon County United Way and the Security State Bank; and

WHEREAS, Ray Shepherd further served the community as a board member for Mercy Hospital, the Small Business Administration and the Automotive Technology Board of Pittsburg State University; as well as serving on the Ford Motor Company Governmental Affairs Committee for the State of Kansas, the State of Kansas Bank Commission and two terms as a Kansas State Highway Commissioner; and

WHEREAS, Mr. Shepherd also served the auto industry he loved so much through working on many dealer councils and advertising associations, serving as President of the Kansas Automobile Dealers Association and providing nine years of service on the Board of Directors of the National Automobile Dealers Association; and

WHEREAS, In 1981, Ray Shepherd was honored as the Time Magazine National Quality Dealer of the Year at the NADA Convention in Los Angeles; and

WHEREAS, Ray Shepherd's service to his community and customers made him a business icon for Fort Scott and a model citizen for all of Kansas: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor Ray Shepherd for the service he provided for his community and that we extend our deepest sympathy to his wife Mary, family and friends; and

Be it further resolved: That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator Bob Marshall.

On emergency motion of Senator Marshall SR 1858 was adopted unanimously.

Senator Marshall introduced Mr. Shepherd's son, David and his wife, Sharon, granddaughter, Molly Mosher, great granddaughter, Grace Mosher and a friend, Don McNeely.

Senator Kelly introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1860-

A RESOLUTION congratulating and commending the Hayden High School girls golf team.

WHEREAS, The Hayden High School girls golf team won the 2008 4A State Golf Championship; and

WHEREAS, During the 2008 season, the Hayden girls golf team captured the Centennial League Tournament Championship, the Regional 4A Championship and the State 4A Championship; and

WHEREAS, The team members are Juniors Gracie Bagley, Janet Lierz, Courtney Koehn, Morgan Trobough and Lauren Falley and Freshman Brooke LaRue; and

WHEREAS, The team was led by City Coach of the Year, Coach Denis Stanley; and

WHEREAS, In the State Tournament the Hayden girls had a dominating performance with Lauren Falley finishing in first place, Brooke LaRue capturing fourth place and Morgan Trobough finishing in fifth place; and

WHEREAS, This outstanding performance by a young team is indicative of the poise and dedication that guided the team throughout the season: Now, therefore, Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Hayden High School girls golf team for an outstanding season and wish them future success; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Laura Kelly.

Ön emergency motion of Senator Kelly SR 1860 was adopted unanimously.

Team members Gracie Bagley, Janet Lierz, Courtney Koeĥn, Morgan Trobough, Lauren Falley and Brooke LaRue were introduced and recognized with a standing ovation.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **SB 329** be passed.

POINT OF PERSONAL PRIVILEGE

Senator Apple rose on a point of personal privilege to introduce the family in representation of the Kelsey Smith Act pertaining to **Senate Substitute for HB 2126.** The following are Kelsey's family: Greg and Missey Smith, parents, Stevie Hockersmith, sister, and Lindsey and Ryan Evans, sister and brother-in-law.

COMMITTEE OF THE WHOLE

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

On motion of Senator Brungardt the following report was adopted:

SCR 1611 be adopted.

A motion by Senator Haley to amend **SCR 1611** failed and the following amendment was rejected: on page 2, line 8, by striking "general" and inserting "primary".

The committee report on **HB 2126** recommending a **S Sub for HB 2126** be adopted, and the substitute bill be passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and SCR 1611; S Sub for HB 2126 were advanced to Final Action and roll call.

SCR 1611, A proposition to amend section 4 of the bill of rights of the constitution of the state of Kansas, relating to the right to bear arms.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Haley.

A two-thirds constitutional majority having voted in favor of the resolution **SCR 1611** was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I support SCR 1611. This constitutional amendment confirms that the right of individual Kansans to keep and bear arms is paramount and a guarantee of liberty.

Our legislative intent is clear and is similar to the that of our founding fathers. In The Federalist Papers Number 29, *Alexander Hamilton* did not view the right to keep arms as being confined to active militia members but individuals.

"Little more can reasonably be aimed at with the respect to the people at large than to have them properly armed and equipped"

James Madison in Federalist No. 46 wrote: "Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached, forms a barrier against the enterprises of ambition,"

March 24, 2009

Tench Coxe published his "Remarks on the First Part of the Amendments to the Federal Constitution," in the Federal Gazette, June 18, 1789. He was a contemporary of Madison pointed out that the individual right to bear arms is the preservation of individual liberty. He said: "the people are confirmed by the next article in their right to keep and bear their private arms."—JEFF COLYER

Senators Abrams, Lynn and Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Colyer on **SCR 1611.**

MR. PRESIDENT: I reluctantly vote "No" on **Senate Concurrent Resolution 1611**. The *substance* of **SCR 1611** (or the *individual* right to keep and bear arms) does not, in my mind, outweigh the *procedure* of **SCR 1611**. The litmus test of Gun Rights should not be the qualification for otherwise good public officials to be elected. . . or not. By submitting this question to the November general election candidates who do not share my view of our codified Kansas constitution's language regarding gun ownership may be unduly prejudiced in their attempt to join or rejoin our democracy. Diversity of thought and inclusion are crucially important concepts; enough for me to be unique in insuring the SCR's *less* than unanimous passage here, now.—DAVID HALEY

MR. PRESIDENT: For many years, the citizens of Kansas have operated under the assumption that they possess an individual, Constitutional right to gun ownership. And we celebrated the decision last summer of the U.S. Supreme Court in Heller vs. D.C. confirming this individual right is enshrined in our U.S. Constitution.

However, we remain troubled. The Heller decision was a very narrow 5-4 vote and could be overturned by a new Justice appointment to the Court. And now we learn that the Kansas Supreme Court, in a unanimous decision more than 100 years ago, ruled there are no individual rights to gun ownership in our Kansas Constitution.

We can no longer await or hope for the right decision from the Judiciary. Instead, it is time to allow Kansans a voice on this matter. By offering this proposed Constitutional Amendment, our citizens will have the final say—shall we have an individual right to gun ownership in Kansas, or shall the state control and dictate who may own or use a gun.

Mr. President, I am very hopeful that the majority of Kansas will agree—the power shall rest with the citizens, not with the government.—TIM HUELSKAMP

Senators Abrams, Lynn, Ostmeyer and Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Huelskamp on SCR 1611.

MR PRESIDENT: I vote Aye. The *City of Salina v. Blaksley*, 72 Kan. 230, 83 P. 619 (1905), interpreted Section 4 of the Kansas Bill of Rights as guaranteeing no individual right to keep arms or to bear arms. The court held "It deals exclusively with the military. Individual rights are not considered in this section." To drive home this point, the court concluded: "The defendant was not a member of an organized militia, nor of any other military organization provided for by law, and was therefore not within the provision of the Bill of Rights, and was not protected by its terms." The court also applied this holding to the Second Amendment. *Blaksley* thus judicially repealed the right to bear arms by holding it only belongs to the military while on duty. This is at odds with the constitution's words and with history. The U.S. Supreme Court rejected this erroneous "collective right" holding on the Second Amendment in *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008). The Kansas Egislature and the people of Kansas should also reject this erroneous application to the Kansas Bill of Rights by exercising their right to amend the Kansas Constitution.—MIKE PETERSEN

Senators Apple, Bruce, Colyer, Huelskamp, Kelly, Kelsey, Lynn, Marshall, Masterson, Ostmeyer, Pilcher-Cook, Schodorf, Steineger, Taddiken and Teichman, request the record to show they concur with the "Explanation of Vote" offered by Senator Petersen on **SCR 1611**.

S Sub for HB 2126, An act concerning telecommunications; relating to providing caller location in emergency situations; relating to enhanced wireless 911 service; concerning certain fees and disposition thereof; relating to audits of certain systems; establishing the joint committee on enhanced and next generation 911; definitions; amending K.S.A. 2008 Supp. 12-5322, 12-5323, 12-5334, 12-5338 and 12-5361 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The substitute bill passed.

EXPLANATION OF VOTE

MR. PRESIDENT: I stand in strong support of **Senate Substitute for House Bill 2126**, that contains the Kelsey Smith Act.

The Kelsey Smith Act will honor the life of a young lady who tragically lost her life at the hands of her abductor in June of 2007. Nothing we do will change the outcome of that terrible day. We can, however, strive to make Kansas safer by requiring wireless telecommunication carriers to cooperate with law enforcement when there is risk of death or serious bodily harm.

The system usually works but in this instance, it did not. Hopefully another family will not have to wait four days to locate a missing loved one. This bill will also disseminate critical contact information to our 911 centers. The Kansas Bureau of Investigation will lead this effort.

This bill will also convene a legislative task force to evaluate our current 911 system to ensure we will have adequate funding and state of the art equipment across Kansas.—PAT APPLE

Senators Abrams, Brownlee, Bruce, Colyer, Lynn, McGinn, Ostmeyer, Owens, Petersen, Taddiken and Umbarger request the record to show they concur with the "Explanation of Vote" offered by Senator Apple on **S Sub HB 2126**

On motion of Senator D. Schmidt, the Senate recessed until 1:30 p.m.

AFTERNOON SESSION

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

MESSAGE FROM THE GOVERNOR

SB 46, SB 77, SB 187 approved on March 24, 2009.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS TECHNOLOGY ENTERPRISE CORPORATION

March 23, 2009

Tracy Taylor, KTEC President and CEO, submitted the 2008 KTEC Annual Report.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

REFERRAL OF APPOINTMENTS

President Morris withdrew the appointments of E. J. "Ned" Holland, Jr., Joe Lee Tilghman and Garen Lorimer Cox to the Kansas Health Policy Authority from the calendar under the heading of Consideration of Appointments and referred them to the Committee on **Public Health and Welfare.**

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Faust-Goudeau introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1857-

A RESOLUTION congratulating and commending Joanna Behrman.

WHEREAS, Joanna Behrman, an esteemed resident of Wichita, Kansas, and a student at Wichita High School East, has achieved national recognition for exemplary volunteer service by being named a Distinguished Finalist for the 2009 Prudential Spirit of Community Award; and

WHEREAS, This prestigious award, presented by Prudential Financial in artnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ms. Behrman earned this award by giving generously of her time and energy to the Diversity Kansas program, where she serves as an intern; and

WHEREAS, Ms. Behrman helps run the "Use Another Word Please" program; and

WHEREAS, The "Use Another Word Please" program discourages the use of offensive or derogatory language among high school students, encouraging them to use sensitive and encouraging language instead; and

WHEREAS, Ms. Behrman promotes the program with posters and buttons, speaks to students and administrators, and encourages students to sign pledges promising to refrain from using insensitive words; and

WHEREAS, The success of the State of Kansas, the strength of our communities, and the overall vitality of American society depends, in great measure, upon the dedication of young people like Ms. Behrman, who use their considerable talents and resources to serve others: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Ms. Behrman for being named a Distinguished Finalist for the Prudential Spirit of Community Award, that we recognize her outstanding record of volunteer service, peer leadership and community spirit and that we extend our best wishes for her continued success and happiness; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Oletha Faust-Goudeau.

On emergency motion of Senator Faust-Goudeau SR 1857 was adopted unanimously.

JoAnna and her mother, Elizabeth, were introduced and welcomed with a standing ovation.

REPORTS OF STANDING COMMITTEES

Committee on Ways and Means recommends SB 308, SB 326 be passed.

Also, **HB 2072**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2072," as follows:

"SENATE Substitute for HOUSE BILL No. 2072

By Committee on Ways and Means

"AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; employment after retirement; disability benefits; membership election, requirements and contributions; amending K.S.A. 74-4937 and K.S.A. 2008 Supp. 74-4914 and 74-4960a and repealing the existing sections." and the substitute bill be passed.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2014**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

PAT APPLE MIKE PETERSEN JANIS K. LEE Conferees on part of Senate

CARL DEAN HOLMES FORREST KNOX Conferees on part of House

On motion of Senator Apple, the Senate adopted the conference committee report on **HB 2014**, and requested a new conference committee be appointed.

The President appointed Senators Apple, Petersen and Lee as a second Conference Committee on the part of the Senate on **HB 2014**.

COMMITTEE OF THE WHOLE

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

On motion of Senator Brungardt the following report was adopted:

Recommended: SB 312 be passed.

SB 242 be amended by adoption of the committee amendments, and the bill be passed as amended.

SR 1859 be adopted.

S Sub for HB 2354 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Vratil, on page 49, in line 26, by adding \$1,200,000 to the dollar amount and adjusting the dollar amount in line 26 accordingly;

On page 115, following line 36, by inserting:

"(c) There is appropriated for the above agency from the children's initiatives fund for the fiscal year ending June 30, 2010, the following:

Provided, That any unencumbered balance in the children's health insurance program account in excess of \$100 as of June 30, 2009, is hereby reappropriated for fiscal year 2010."

S Sub HB 2354 be further amended by motion of Senator Barnett, on page 49, in line 26 by adding \$328,465 to the dollar amount and adjusting the dollar amount in line 26 accordingly;

On page 99, following line 25, by inserting the following:

Provided, That any unencumbered balance in the primary care clinics account in excess of \$100 as of June 30, 2009, is hereby reappropriated for fiscal year 2010."

S Sub HB 2354 be further amended by motion of Senator V. Schmidt, on page 288, following line 20, by inserting:

"Sec. 151. Section 3 of chapter 159 of the 2008 Session Laws of Kansas is hereby amended to read as follows: Section 3. (a) There is hereby appropriated for the state finance council from the state general fund for the fiscal year or years specified, the following:

Classified salary market adjustments (including fringe benefits)

- For the fiscal year ending June 30, 2010	\$8,534,972
For the fiscal year ending June 30, 2011	\$8,534,972
For the fiscal year ending June 30, 2012	\$8,534,972
For the fiscal year ending June 30, 2013	\$8,534,972
For the fiscal year ending June 30, 2014	\$8,534,972

Provided, That all moneys in the classified salary market adjustments (including fringe benefits) account for each such fiscal year shall be used for the purpose of paying the proportionate share of the cost to the state general fund of the salary market adjustments, including associated employer contributions, for executive branch classified employees in positions in job classifications that are reassigned under the market adjustment component during the fiscal year and, upon recommendation of the director of the budget, the state finance council, acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto, except paragraph (3) of such subsection (c), is hereby authorized to approve

the transfer of moneys from the appropriation under this subsection (a) by the director of accounts and reports, who is hereby authorized and directed to make such transfers in accordance with each such approval, to the proper accounts created by state general fund appropriations for the fiscal year for which such transfers are so approved under this subsection (a).

(b) Upon recommendation of the director of the budget, the state finance council, acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto, except paragraph (3) of such subsection (c), is hereby authorized to approve increases in expenditure limitations on special revenue funds and accounts established for each fiscal year designated in subsection (a), for each such fiscal year, commencing with the fiscal year ending June 30, 2009, by the director of accounts and reports, who is hereby authorized and directed to increase expenditure limitations on such special revenue funds and accounts in accordance with such approval, for the purpose of paying from such funds or accounts the proportionate share of the cost to such funds or accounts, including associated employer contributions, of the salary increases and other amounts specified in subsection (a) for each such fiscal year, commencing with the fiscal year ending June 30, 2009.

(c) The director of the budget, on behalf of the executive branch of state government, shall prepare a budget estimate based upon the most recent payroll information for the salary increases and other amounts specified in subsection (a), and all amendments and revisions of such estimate, and the director of the budget shall submit a copy of such estimate, and all amendments and revisions thereof, directly to the director of legislative research.

Sec. 152. Section 3 of chapter 159 of the 2008 Session Laws of Kansas is hereby repealed.";

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 17, after "amending" by inserting "section 3 of chapter 159 of the 2008 Session Laws of Kansas,"

S Sub HB 2354 be further amended by motion of Senator Taddiken, on page 96, after line 8, by inserting the following:

Provided, That any unencumbered balance in the pregnancy maintenance initiative account in excess of \$100 as of June 30, 2009, is hereby reappropriated for fiscal year 2010."

S Sub HB 2354 be further amended by motion of Senator Huelskamp, on page 288, preceding line 21, by inserting the following:

"Sec. 151. (a) During the fiscal year ending June 30, 2010, any expenditures or grants of money by any state agency for family planning services financed in whole or in part from federal title V, title X, title XIX or title XX moneys shall be made subject to the following two priorities: First priority to public entities (state, county, local health departments and health clinics) and if any moneys remain then, second priority to non-public entities which are hospitals or federally qualified health centers that provide comprehensive primary and preventative care in addition to family planning services.

(b) As used in this section "hospitals" shall have the same meaning as defined in K.S.A. 65-425, and amendments thereto, and "federally qualified health center" shall have the same meaning as defined in K.S.A. 65-1669, and amendments thereto.";

And by renumbering the remaining sections accordingly

Senator Huelskamp further amended **S Sub HB 2354** on page 288, following line 20, by inserting the following:

"Sec. 151. On and after the effective date of this act, during the fiscal year ending June 30, 2010, no moneys appropriated from the state general fund or in any special revenue fund shall be expended to provide for any person to use any aircraft owned or leased by the state for personal use: *Provided*, That the governor and any other state officer or employee shall use state aircraft only for official state business: *Provided further*, That if the governor or any other state officer or employee uses any state aircraft for travel that is not official business, such person shall reimburse the state of Kansas for the costs relating to such travel in an amount equal to the standard charter flight rate: *And provided further*, That if a private

citizen accompanies a state officer or employee on any state aircraft for travel, such person shall reimburse the state of Kansas for the costs relating to such travel in an amount equal to the standard charter flight rate: *And provided further*, That as used in this section, "official business" means any activity involving travel in a state aircraft if the activity is reasonably required, expected or appropriate, considering the nature of the governor's or other state officer or employee's job responsibilities: *And provided further*, That the activities shall include, but not be limited to, attendance by the governor or other state officer or employee at nonpartisan ceremonial functions and events where the governor's or other state officer or employee's appearance is normally expected by virtue of the function or where official representation of the state is otherwise appropriate, and to nonpolitical flights by the governor and the governor's family when accompanying or representing the governor: *And provided further*, That all moneys received for any such reimbursements shall be deposited in the state treasury to the credit of the state general fund."

And by renumbering the remaining sections accordingly

S Sub HB 2354 be further amended by motion of Senator Emler, on page 27, in line 21, by striking "fund" and inserting "account"; in line 26, by striking "fund" and inserting "account";

On page 60, in line 27, by decreasing the expenditure limitation on the MacVicar avenue assessment expense fund from no limit to \$0;

On page 145, in line 40, by adding \$3,750 to the dollar amount and by adjusting the dollar amount in line 40 accordingly;

On page 155, in line 12, by adding \$34,835 to the dollar amount and by adjusting the dollar amount in line 12 accordingly;

On page 160, in line 14, by subtracting \$83,958 from the dollar amount and by adjusting the dollar amount in line 14 accordingly;

On page 162, in line 24, by subtracting \$286,192 from the dollar amount and by adjusting the dollar amount in line 24 accordingly; in line 25 by subtracting \$802,683 from the dollar amount and by adjusting the dollar amount in line 25 accordingly; in line 28, by subtracting \$38,096 from the dollar amount and by adjusting the dollar amount in line 28 accordingly; in line 29, by subtracting \$2,507,975 from the dollar amount and by adjusting the dollar amount in line 29 accordingly, in line 31, by subtracting \$10,409 from the dollar amount and by adjusting the dollar amount in line 31 accordingly; in line 38, by subtracting \$1,870 from the dollar amount amount amount amount amount in line 31 accordingly; in line 38 accordingly;

On page 163, in line 21, by subtracting \$46,278 from the dollar amount and by adjusting the dollar amount in line 21 accordingly; in line 34, by subtracting \$18,619 from dollar amount and by adjusting the dollar amount in line 34 accordingly

S Sub HB 2354 be further amended by motion of Senator Teichman on"Kansas foundation for agriculture project grant.....\$35

\$35,000

Provided, That expenditures from the Kansas foundation for agriculture project grant account shall be used for agriculture in the classroom programs to supplement existing elementary and secondary curricula with agricultural information: *Provided further*, That expenditures from this account shall be made only if private funding sources are available to match such state grants on a 60% state and 40% private basis."

S Sub HB 2354 be further amended by motion of Senator McGinn on page 287, by striking all in lines 18 through 43;

On page 288, by striking all in lines 1 through 20;

By renumbering the remaining sections accordingly, and **S Sub HB 2354** be passed as further amended.

The following amendments offered to S Sub HB 2354 were rejected:

Senator Barnett moved to amend the bill on page 271, by striking all in lines 38 through 43;

On page 272, by striking all in lines 1 through 27.

Senator Schmidt moved to amend the bill on page 225, by striking all in lines 20 through 24;

And by relettering the remaining subsection accordingly.

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

On roll call, the vote was: Yeas 15, Nays 22, Present and Passing 0, Absent or Not Voting 3.

Yeas: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, Owens, Petersen, Pyle, Reitz, Schmidt V, Teichman, Umbarger.

Nays: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Marshall, McGinn, Ostmeyer, Pilcher-Cook, Schmidt D, Schodorf, Steineger, Taddiken, Vratil, Wysong.

Absent or Not Voting: Masterson, Morris, Wagle.

The motion failed and the amendment was rejected.

Senator Masterson moved to amend the bill on page 27, line 20, by striking "all" after colon thru line 30, and page 29, line 5, striking "all" after colon thru line 14.

Sub SB 184; HB 2324 be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and SB 242, SB 312; SR 1859; S Sub for HB 2354 were advanced to Final Action, subject to amendment, debate and roll call.

SB 242, An act concerning personal property taxation; relating to motor vehicles; computation of amount of tax; amending K.S.A. 79-5105 and repealing the existing section.

On roll call, the vote was: Yeas 16, Nays 24, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Barnett, Bruce, Donovan, Emler, Huelskamp, Kelsey, Marshall, Morris, Petersen, Pilcher-Cook, Schmidt D, Schodorf, Steineger, Umbarger, Wagle.

Nays: Apple, Brownlee, Brungardt, Colyer, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, Lynn, Masterson, McGinn, Ostmeyer, Owens, Pyle, Reitz, Schmidt V, Taddiken, Teichman, Vratil, Wysong.

A constitutional majority having failed to vote in favor of the bill, **SB 242** did not pass.

EXPLANATION OF VOTE

MR PRESIDENT: I vote NO on **SB 242**. While I support lowering property taxes on vehicles in Kansas, I do not support doing that on the backs of our local units of government. It is inappropriate that the legislature reduces the amount of revenues collected by local units of governments in order to increase the revenues coming to the state and to lower the property tax burden on vehicles. If **SB 242** were to pass, local units of government would be left with very little option other than to increase the property tax burden on our homes and businesses.—JANIS K. LEE

Senators Francisco, Hensley and Kelly request the record to show they concur with the "Explanation of Vote" offered by Senator Lee on **SB 242**.

SB 312, An act concerning property taxation; relating to public utilities; natural gas inventories; amending K.S.A. 2008 Supp. 79-5a01 and repealing the existing section.

On roll call, the vote was: Yeas 32, Nays 6, Present and Passing 2, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huelskamp, Kelsey, Kultala, Lee, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Nays: Brownlee, Colyer, Lynn, Petersen, Pilcher-Cook, Wagle.

Present and Passing: Francisco, Kelly.

The bill passed.

SR 1859, A resolution supporting the Airborne Laser program and urging the United State Congress to provide the necessary funding for the on-going development and operation of the program.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The resolution was adopted.

S Sub for HB 2354, Ån act making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012 and June 30, 2013, and June 30, 2014, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending section 3 of chapter 159 of the 2008 Session Laws of Kansas, section 95 of 2009 House Substitute for Substitute for Senate Bill No. 23 and K.S.A. 2008 Supp. 2-223, 12-5256, 55-193, 75-6702, 76-7,107, 79-2959, 79-2964, 79-2978, as amended by section 88 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-2979, as amended by section 89 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-3425i, 79-4801 and 82a-953a and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Bruce, Brungardt, Donovan, Emler, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Brownlee, Colyer, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kultala, Lee, Pilcher-Cook, Pyle, Steineger.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **Senate Substitute for HB 2354** because the bill maintains funding for education, helps make health care more available and affordable, moves our budget near the point that expenditures equal revenues and helps keep Kansans at work.

We all recognize that the stimulus spending money that allows our budget to balance this year only represents a pain killer that eases the pain, but does not provide a cure. We know that eventually, everyone will share that pain.

Mr. President, the Kansas Legislature has made progress during an extremely challenging time. Working together, I am confident Kansas will return to a state of steady growth and prosperity.—JIM BARNETT

Senators Lynn and Schodorf request the record to show they concur with the "Explanation of Vote" offered by Senator Barnett on **S Sub for HB 2354**.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on this budget proposal. In these difficult times, it does not strike the right balance supporting essential services like schools, safetynet clinics, and law enforcement.

We are looking at a cliff in the next two years. This budget is not based on sound economic projections.

And we have made minimal effort to make a transition to more stable funding. We are sowing the seeds of a budget crisis that may actually be worse than what we imagined. It is setting up a perfect storm to raise taxes on working Kansans and cut critical programs at the height of the recession.

We made no attempt to reform the giant HMO called Medicaid, encourage excellent schools, or adopt more effective state programs.

Most importantly, there has been no consideration of the long term economic impacts on Kansas. We should use the breathing room gained from the stimulus package to stimulate economic growth rather than planning to raise taxes on working Kansans and businesses and cut programs for the most needy.—JEFF COYLER

Senators Brownlee and Faust-Goudeau request the record to show they concur with the "Explanation of Vote" offered by Senator Colyer on **S Sub for HB 2354**.

March 24, 2009

MR. PRESIDENT: I vote no on **Senate Substitute for House Bill 2354.** As amended by committee, the money committed to keeping our promise to fully fund the second phase of the state employee pay plan was drastically reduced. This plan would have improved the way Kansas compensates its state employees by bringing thousands of state employees' wages up to market. Unfortunately, by reducing this funding the Kansas Senate has not only broken our promise, but has essentially balanced the state budget on the backs of Kansas' dedicated state employees and their families.

In addition, the Children's Initiative Fund, the purpose for which is to fund vital early childhood education programs, has been unnecessarily raided to fund other health care programs. While I agree that it's vital the State find a way to fund health insurance for the 8,000 Kansas children who are currently living without coverage, such funding should have been secured through a more stable funding source such as the State General Fund, rather than the Children's Initiative Fund.—LAURA KELLY

Senators Hensley, Kultala and Lee request the record to show they concur with the "Explanation of Vote" offered by Senator Kelly on **S Sub for HB 2354**.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Wednesday, March 24, 2009.

Journal of the Senate

FIFTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, March 25, 2009—10:00 a.m.

The Senate was called to order by Vice President John Vratil. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I read about a teenage boy Whose leg became infected. The doctor shared the news The boy had not expected.

"I need to amputate," he said, But the teenager said, "No way" So he and his family prayed two nights And in between, all day.

The leg was healed and they all knew It was due to all Your power; For You had a great big plan For Dwight D. Eisenhower!

Some people say they, too, have prayed But their prayers were not fulfilled. We must remember we need to pray According to Your will!

Friday's Prayer Breakfast Day, So we pray for all of Kansas, From Hugoton to Wathena, From Galena to St. Francis.

Please join me as we pray silently for all the citizens of Kansas, especially those who are experiencing hard times.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

CHANGE OF REFERENCE

The Vice President withdrew **HB 2130** from the Calendar under the heading of General Orders, and rereferred the bill to the Committee on **Federal and State Affairs**.

MESSAGE FROM THE HOUSE

Announcing passage of HB 2369, HB 2373.

The House accedes to the request of the Senate for a conference on **SB 64** and has appointed Representatives Powell, Fund and Svaty as conferees on the part of the House. The House nonconcurs in Senate amendments to **Substitute for HB 2008**, requests a conference and appoints Representatives Horst, Hill and Trimmer as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2172**, requests a conference and appoints Representatives Carlson, King and Menghini as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2214**, requests a conference and appoints Representatives Shultz, Peck and Dillmore as conferences on the part of the House.

The House nonconcurs in Senate amendments to **Senate Substitute for HB 2219**, requests a conference and appoints Representatives Morrison, Burgess and Trimmer as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2292**, requests a conference and appoints Representatives Anthony Brown, Proehl and Grant as conference on the part of the House.

The House nonconcurs in Senate amendments to **Senate Substitute for HB 2126**, requests a conference and appoints Representatives Carl Holmes, Knox and Kuether as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2369, HB 2373 were thereupon introduced and read by title.

REPORT ON ENROLLED BILLS

SR 1857, SR 1858, SR 1859, SR 1860 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 25, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **HB 2130**, as amended by Senate Committee, be amended by adoption of the amendments recommended by the Senate Committee on Transportation as reported in the Journal of the Senate on March 16, 2009, and be further amended on page 3, after line 31, by inserting the following:

"New Sec. 3. The William Inge Theatre Festival held in Independence, Kansas, is hereby designated as the official theatre festival of the state of Kansas.";

And by renumbering the remaining sections accordingly;

In the title, in line 10, by striking "motor vehicles" and inserting "Kansas arts"; in line 11, preceding "amending" by inserting "designating the William Inge Theatre Festival as the official theatre festival of the state of Kansas;"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **HB 2195**, as amended by House Committee, be amended on page 2, by striking all in line 43 and inserting the following:

"Sec. 4. K.S.A. 2008 Supp. 38-2305 is hereby amended to read as follows: 38-2305. (a) Venue for proceedings in any case involving a juvenile shall be in any county where any act of the alleged offense was committed.

(b) Except as provided in subsection (c), venue for sentencing proceedings shall be in the county of the juvenile offender's residence or, if the juvenile offender is not a resident of this state, in the county where the adjudication occurred. When the sentencing hearing is to be held in a county other than where the adjudication occurred, upon adjudication, the judge shall contact the sentencing court and advise the judge of the transfer. The adjudicating court shall send immediately to the sentencing court a facsimile *or electronic copy* of the complaint, the adjudication journal entry or judge's minutes, if available, and any recommendations in regard to sentencing. Such documents shall be sent for purposes of notification and shall not constitute original court documents. The adjudicating court shall also send to the sentencing court a complete copy of the official and social files in the case by mail within five working days of the adjudication.

(c) If the juvenile offender is adjudicated in a county other than the county of the juvenile offender's residence, the sentencing hearing may be held in the county in which the adjudication was made if the adjudicating judge, upon motion by any person authorized to appeal, finds that it is in the interest of justice.

Sec. 5. K.S.A. 2008 Supp. 59-29a08 is hereby amended to read as follows: 59-29a08. (a) Each person committed under K.S.A. 59-29a01 et seq., and amendments thereto, shall have a current examination of the person's mental condition made once every year. The secretary

shall provide the committed person with an annual written notice of the person's right to petition the court for release over the secretary's objection. The notice shall contain a waiver of rights. The secretary shall also forward the annual report, as well as the annual notice and waiver form, to the court that committed the person under K.S.A. 59-29a01 et seq., and amendments thereto. The person may retain, or if the person is indigent and so requests the court may appoint a qualified professional person to examine such person, and such expert or professional person shall have access to all records concerning the person. The court that committed the person is indigent the reto, shall then conduct an annual review of the status of the committed person's mental condition. The committed person shall have a right to have an attorney represent the person at the hearing but the person is not entitled to be present at the hearing.

(b) Nothing contained in K.S.A. 59-29a01 et seq., and amendments thereto, shall prohibit the person from otherwise petitioning the court for discharge at this hearing.

(c) (1) If the court at the hearing determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be placed in transitional release, then the court shall set a hearing on the issue.

(2) The court may order and hold a hearing when: (A) There is current evidence from an expert or professional person that an identified physiological change to the committed person, such as paralysis, stroke or dementia, that renders the committed person unable to commit a sexually violent offense and this change is permanent; and

(B) the evidence presents a change in condition since the person's last hearing.

(3) At either hearing, the committed person shall be entitled to be present and entitled to the benefit of all constitutional protections that were afforded the person at the initial commitment proceeding. The attorney general shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to have experts evaluate the person on the person's behalf and the court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at either hearing shall be upon the state to prove beyond a reasonable doubt that the committed person's mental abnormality or personality disorder remains such that the person is not safe to be placed in transitional release and if transitionally released is likely to engage in acts of sexual violence.

(d) If, after the hearing, the court or jury is convinced beyond a reasonable doubt that the person is not appropriate for transitional release, the court shall order that the person remain in secure commitment. Otherwise, the court shall order that the person be placed in transitional release.

(e) If the court determines that the person should be placed in transitional release, the secretary shall transfer the person to the transitional release program. The secretary may contract for services to be provided in the transitional release program. During any period the person is in transitional release, that person shall comply with any rules or regulations the secretary may establish for this program and every directive of the treatment staff of the transitional release program.

(f) At any time during which the person is in the transitional release program and the treatment staff determines that the person has violated any rule, regulation or directive associated with the transitional release program, the treatment staff may remove the person from the transitional release program and return the person to the secure commitment facility, or may request the district court to issue an emergency ex parte order directing any law enforcement officer to take the person into custody and return the person to the secure commitment facility. Any such request may be made verbally or by telephone, but shall be followed in written $\overline{\mathbf{w}}$, facsimile *or electronic* form delivered to the court by not later than 5:00 p.m. of the first day the district court is open for the transaction of business after the verbal or telephonic request was made.

(g) Upon the person being returned to the secure commitment facility from the transitional release program, notice thereof shall be given by the secretary to the court. The court shall set the matter for a hearing within two working days of receipt of notice of the person's having been returned to the secure commitment facility and cause notice thereof to be given to the attorney general, the person and the secretary. The attorney general shall have the burden of proof to show probable cause that the person violated conditions of transitional release. The hearing shall be to the court. At the conclusion of the hearing the court shall issue an order returning the person to the secure commitment facility or to the transitional release program, and may order such other further conditions with which the person must comply if the person is returned to the transitional release program.

Sec. 6. K.S.A. 59-29a19 is hereby amended to read as follows: 59-29a19. (a) If the court determines that the person should be placed on conditional release, the court, based upon the recommendation of the treatment staff, shall establish a plan of treatment which the person shall be ordered to follow. This plan of treatment may include, but shall not be limited to: Provisions as to where the person shall reside and with whom, taking prescribed medications, attending individual and group counseling, maintaining employment, having no contact with children, not frequenting facilities, locations, events or otherwise in which children are likely to be present and not engaging in activities in which contact with children is likely. Upon a showing by the person that the person from the transitional release program.

(b) After a minimum of five years have passed in which the person has been free of violations of conditions of such person's treatment plan, the treatment staff, or other professionals directed by the court may examine such person to determine if the person's mental abnormality or personality disorder has changed so as to warrant such person being considered for final discharge. The person preparing the report shall forward the report to the court. The court shall review the same. If the court determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be entitled to final discharge, the court shall set a formal hearing on the issue. The attorney general shall have the burden of proof to show beyond a reasonable doubt that the person's mental abnormality or personality disorder remains such that such person is not appropriate for final discharge. The person shall have the same rights as enumerated in K.S.A. 59-29a06 and amendments thereto. Subsequent to either a court review or a hearing, the court shall issue an appropriate order with findings of fact. The order of the court shall be provided to the attorney general, the person and the secretary.

(c) If, after a hearing, the court is convinced beyond a reasonable doubt that the person is not appropriate for final discharge, the court shall continue custody of the person with the secretary for placement in a secure facility, transitional release program or conditional release program. Otherwise, the court shall order the person finally discharged. In the event the court does not order final discharge of the person, the person still retains the right to annual reviews.

(d) At any time during which the person is on conditional release and the professional person designated by the court in the treatment plan to monitor the person's compliance with it determines that the person has violated any material condition of that plan, that professional person may request the district court to issue an emergency ex parte order directing any law enforcement officers to take the person into custody and return the person to the secure commitment facility. Any such request may be made verbally or by telephone, but shall be followed in written or, facsimile *or electronic copy* form delivered to the court not later than 5:00 p.m. of the first day the district court is open for the transaction of business after the verbal or telephonic request was made.

(e) Upon the person being returned to the secure commitment facility from conditional release, notice thereof shall be given by the secretary to the court. The court shall set the matter for a hearing within two working days of receipt of notice of the person's having been returned to the secure commitment facility and cause notice thereof to be given to the attorney general, the person and the secretary. The attorney general shall have the burden of proof to show probable cause that the person violated conditions of conditional release. The hearing shall be to the court. At the conclusion of the hearing the court shall issue an order returning the person to the secure commitment facility, to the transitional release program or to conditional release, and may order such other further conditions with which the person must comply if the person is returned to either the transitional release program or to conditional release.

(f) The final discharge shall not prevent the person from being prosecuted for any criminal acts which the person is alleged to have committed or from being subject in the future to a subsequent commitment under this act.

Sec. $\vec{7}$. K.S.A. 59-29b67 is hereby amended to read as follows: 59-29b67. (a) An order for outpatient treatment may be entered by the court at any time in lieu of any type of order which would have required inpatient care and treatment if the court finds that the patient is likely to comply with an outpatient treatment order and that the patient will not likely be a danger to the community or be likely to cause harm to self or others while subject to an outpatient treatment order.

(b) No order for outpatient treatment shall be entered unless the head of the outpatient treatment facility has consented to treat the patient on an outpatient basis under the terms and conditions set forth by the court.

(c) If outpatient treatment is ordered, the order may state specific conditions to be followed by the patient, but shall include the general condition that the patient is required to comply with all directives and treatment as required by the head of the outpatient treatment facility or the head's designee. The court may also make such orders as are appropriate to provide for monitoring the patient's progress and compliance with outpatient treatment. Within any outpatient order for treatment the court shall specify the period of treatment as provided for in subsection (a) of K.S.A. 59-29b66 or subsection (f) of K.S.A. 59-29b69 and amendments thereto.

(d) The court shall retain jurisdiction to modify or revoke the order for outpatient treatment at any time on its own motion, on the motion of any counsel of record or upon notice from the treatment facility of any need for new conditions in the order for outpatient treatment or of material noncompliance by the patient with the order for outpatient treatment. However, if the venue of the matter has been transferred to another court, then the court having venue of the matter shall have such jurisdiction to modify or revoke the outpatient treatment order. Revocation or modification of an order for outpatient treatment may be made ex parte by order of the court in accordance with the provisions of subsections (e) or (f).

(e) The treatment facility shall immediately report to the court any material noncompliance by the patient with the outpatient treatment order. Such notice may be verbal or by telephone but shall be followed by a verified written or, facsimile *or electronic copy* notice sent to the court, to counsel for all parties and, as appropriate, to the head of the inpatient treatment facility designated to receive the patient, by not later than 5:00 p.m. of the first day the district court is open for the transaction of business after the verbal or telephonic communication was made to the court. Upon receipt of verbal, telephone, or verified written or, facsimile *or electronic copy* notice of material noncompliance, the court may enter an ex parte emergency custody order providing for the immediate detention of the patient in a designated inpatient treatment facility. Any ex parte emergency custody order issued by the court under this subsection shall expire at 5:00 p.m. of the second day the district court is open for the transaction of business after the patient is taken into custody. The court shall not enter successive ex parte emergency custody orders.

(f) (1) Upon the taking of a patient into custody pursuant to an exparte emergency custody order revoking a previously issued order for outpatient treatment and ordering the patient to involuntary inpatient care the court shall set the matter for hearing not later than the close of business on the second day the court is open for business after the patient is taken into custody. Notice of the hearing shall be given to the patient, the patient's attorney, the patient's legal guardian, the petitioner or the county or district attorney as appropriate, the head of the outpatient treatment facility and the head of the inpatient treatment facility, similarly as provided for in K.S.A. 59-29b63 and amendments thereto.

(2) Upon the entry of an ex parte order modifying a previously issued order for outpatient treatment, but allowing the patient to remain at liberty, a copy of the order shall be served upon the patient, the patient's attorney, the county or district attorney and the head of the outpatient treatment facility similarly as provided for in K.S.A. 59-29b63 and amendments thereto. Thereafter, any party to the matter, including the petitioner, the county or district attorney or the patient, may request a hearing on the matter if the request is filed within 5 days from the date of service of the ex parte order upon the patient. The court may also

order such a hearing on its own motion within 5 days from the date of service of the notice. If no request or order for hearing is filed within the 5-day period, the ex parte order and the terms and conditions set out in the ex parte order shall become the final order of the court substituting for any previously entered order for outpatient treatment. If a hearing is requested, a formal written request for revocation or modification of the outpatient treatment order shall be filed by the county or district attorney or the petitioner and a hearing shall be held thereon within 5 days after the filing of the request.

(g) The hearing held pursuant to subsection (f) shall be conducted in the same manner as hearings provided for in K.S.A. 59-29b59 and amendments thereto. Upon the completion of the hearing, if the court finds by clear and convincing evidence that the patient violated any condition of the outpatient treatment order, the court may enter an order for inpatient treatment, or may modify the order for outpatient treatment with different terms and conditions in accordance with this section.

(h) The outpatient treatment facility shall comply with the provisions of K.S.A. 59-29b69 and amendments thereto concerning the filing of written reports for each period of treatment during the time any outpatient treatment order is in effect and the court shall receive and process such reports in the same manner as reports received from an inpatient treatment facility.

Sec. 8. K.S.A. 59-29b71 is hereby amended to read as follows: 59-29b71. (a) At any time after the petition provided for in K.S.A. 59-29b57 and amendments thereto has been filed venue may be transferred in accordance with this section.

(1) Prior to trial required by K.S.A. 59-29b65 and amendments thereto. Before the expiration of two full working days following the probable cause hearing held pursuant to K.S.A. 59-29b59 or 59-29b62 and amendments thereto, the district court then with jurisdiction, on its own motion or upon the written request of any person, may transfer the venue of the case to the district court of the county where the patient is being detained, evaluated or treated in a treatment facility under the authority of an order issued pursuant to K.S.A. 59-29b59 or 59-29b54 and amendments thereto. Thereafter the district court may on its own motion or upon the written request of any person transfer venue to another district court only for good cause shown. When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or district court shall also immediately send a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated.

(2) After the trial required by K.S.A. 59-29b65 and amendments thereto, the district court may on its own motion or upon the written request of any person transfer venue to another district court for good cause shown. When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of the petition for determination of whether a person is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment, the most recent notice of hearing issued by the court, the order changing venue, the current order of treatment, the most recent written report summarizing treatment and any order allowing withdrawal of the patient's attorney. The transferring district court shall also immediately send a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated. No later than 5:00 p.m. of the second full day the district court transferring venue is open for business following the issuance of the order transferring venue, the district court transferring venue shall send to the receiving district court the entire file of the case by restricted mail.

(b) The district court issuing an order transferring venue, if not in the county of residence of the proposed patient, shall transmit to the district court in the county of residence of the proposed patient a statement of any court costs incurred by the county of the district court issuing the order and, if the county of residence is not the receiving county, a certified copy of all pleadings and orders in the case.

(c) Any district court to which venue is transferred shall proceed in the case as if the petition had been originally filed therein and shall cause notice of the change of venue to be given to the persons named in and in the same manner as provided for in K.S.A. 59-29b63 and amendments thereto. In the event that notice of a change of location of a hearing

due to a change of venue cannot be served at least 48 hours prior to any hearing previously scheduled by the transferring court or because of scheduling conflicts the hearing can not be held by the receiving court on the previously scheduled date, then the receiving court shall continue the hearing for up to seven full working days to allow adequate time for notice to be given and the hearing held.

(d) Any district court to which venue is transferred, if not in the county of residence of the patient, shall transmit to the district court in the county of residence of the patient a statement of any court costs incurred and a certified copy of all pleadings and orders entered in the case after transfer.

Sec. 9. K.S.A. 59-2967 is hereby amended to read as follows: 59-2967. (a) An order for outpatient treatment may be entered by the court at any time in lieu of any type of order which would have required inpatient care and treatment if the court finds that the patient is likely to comply with an outpatient treatment order and that the patient will not likely be a danger to the community or be likely to cause harm to self or others while subject to an outpatient treatment order.

 (\bar{b}) No order for outpatient treatment shall be entered unless the head of the outpatient treatment facility has consented to treat the patient on an outpatient basis under the terms and conditions set forth by the court, except that no order for outpatient treatment shall be refused by a participating mental health center.

(c) If outpatient treatment is ordered, the order may state specific conditions to be followed by the patient, but shall include the general condition that the patient is required to comply with all directives and treatment as required by the head of the outpatient treatment facility or the head's designee. The court may also make such orders as are appropriate to provide for monitoring the patient's progress and compliance with outpatient treatment. Within any outpatient order for treatment the court shall specify the period of treatment as provided for in subsection (a) of K.S.A. 59-2966 or subsection (f) of K.S.A. 59-2969 and amendments thereto.

(d) The court shall retain jurisdiction to modify or revoke the order for outpatient treatment at any time on its own motion, on the motion of any counsel of record or upon notice from the treatment facility of any need for new conditions in the order for outpatient treatment or of material noncompliance by the patient with the order for outpatient treatment. However, if the venue of the matter has been transferred to another court, then the court having venue of the matter shall have such jurisdiction to modify or revoke the outpatient treatment order. Revocation or modification of an order for outpatient treatment may be made ex parte by order of the court in accordance with the provisions of subsections (e) or (f).

(e) The treatment facility shall immediately report to the court any material noncompliance by the patient with the outpatient treatment order. Such notice may be verbal or by telephone but shall be followed by a verified written or, facsimile or electronic notice sent to the court, to counsel for all parties and, as appropriate, to the head of the inpatient treatment facility designated to receive the patient, by not later than 5:00 p.m. of the first day the district court is open for the transaction of business after the verbal or telephonic communication was made to the court. Upon receipt of verbal, telephone, or verified written or, facsimile or *electronic* notice of material noncompliance, the court may enter an exparte emergency custody order providing for the immediate detention of the patient in a designated inpatient treatment facility except that the court shall not order the detention of the patient at a state psychiatric hospital, unless a written statement from a qualified mental health professional authorizing such detention at a state psychiatric hospital has been filed with the court. Any exparte emergency custody order issued by the court under this subsection shall expire at 5:00 p.m. of the second day the district court is open for the transaction of business after the patient is taken into custody. The court shall not enter successive ex parte emergency custody orders.

(f) (1) Upon the taking of a patient into custody pursuant to an exparte emergency custody order revoking a previously issued order for outpatient treatment and ordering the patient to involuntary inpatient care the court shall set the matter for hearing not later than the close of business on the second day the court is open for business after the patient is taken into custody. Notice of the hearing shall be given to the patient, the patient's attorney, the

patient's legal guardian, the petitioner or the county or district attorney as appropriate, the head of the outpatient treatment facility and the head of the inpatient treatment facility, similarly as provided for in K.S.A. 59-2963 and amendments thereto.

(2) Upon the entry of an ex parte order modifying a previously issued order for outpatient treatment, but allowing the patient to remain at liberty, a copy of the order shall be served upon the patient, the patient's attorney, the county or district attorney and the head of the outpatient treatment facility similarly as provided for in K.S.A. 59-2963 and amendments thereto. Thereafter, any party to the matter, including the petitioner, the county or district attorney or the patient, may request a hearing on the matter if the request is filed within five days from the date of service of the ex parte order upon the patient. The court may also order such a hearing on its own motion within five days from the date of service of the notice. If no request or order for hearing is filed within the five-day period, the ex parte order and the terms and conditions set out in the ex parte order shall become the final order of the court substituting for any previously entered order for outpatient treatment. If a hearing is requested, a formal written request for revocation or modification of the outpatient treatment order shall be filed by the county or district attorney or the petitioner and a hearing shall be held thereon within 5 days after the filing of the request.

(g) The hearing held pursuant to subsection (f) shall be conducted in the same manner as hearings provided for in K.S.A. 59-2959 and amendments thereto. Upon the completion of the hearing, if the court finds by clear and convincing evidence that the patient violated any condition of the outpatient treatment order, the court may enter an order for inpatient treatment, except that the court shall not order treatment at a state psychiatric hospital unless a written statement from a qualified mental health professional authorizing such treatment at a state psychiatric hospital has been filed with the court, or may modify the order for outpatient treatment with different terms and conditions in accordance with this section.

(h) The outpatient treatment facility shall comply with the provisions of K.S.A. 59-2969 and amendments thereto concerning the filing of written reports for each period of treatment during the time any outpatient treatment order is in effect and the court shall receive and process such reports in the same manner as reports received from an inpatient treatment facility.

Sec. 10. K.S.A. 59-2971 is hereby amended to read as follows: 59-2971. (a) At any time after the petition provided for in K.S.A. 59-2957 and amendments thereto has been filed venue may be transferred in accordance with this section.

(1) Prior to trial required by K.S.A. 59-2965 and amendments thereto. Before the expiration of two full working days following the probable cause hearing held pursuant to K.S.A. 59-2959 or 59-2962 and amendments thereto, the district court then with jurisdiction, on its own motion or upon the written request of any person, may transfer the venue of the case to the district court of the county where the patient is being detained, evaluated or treated in a treatment facility under the authority of an order issued pursuant to K.S.A. 59-2958, 59-2959 or 59-2964 and amendments thereto. Thereafter the district court may on its own motion or upon the written request of any person transfer venue to another district court only for good cause shown.

When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile *or electronic copy* of all pleadings and orders in the case. The district court shall also immediately send a facsimile *or electronic copy* of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated.

(2) After trial required by K.S.A. 59-2965 and amendments thereto, the district court may on its own motion or upon the written request of any person transfer venue to another district court for good cause shown. When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile *or electronic copy* of the petition for determination of mental illness subject to involuntary commitment for care and treatment, the most recent notice of hearing issued by the court, the order changing venue, the current order of treatment, the most recent written report summarizing treatment and any order allowing withdrawal of the patient's attorney. The transferring district court shall also immediately send a facsimile *or electronic* *copy* of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated. No later than 5:00 p.m. of the second full day the district court transferring venue is open for business following the issuance of the order transferring venue, the district court transferring venue shall send to the receiving district court the entire file of the case by restricted mail.

(b) The district court issuing an order transferring venue, if not in the county of residence of the proposed patient, shall transmit to the district court in the county of residence of the proposed patient a statement of any court costs incurred by the county of the district court issuing the order and, if the county of residence is not the receiving county, a certified copy of all pleadings and orders in the case.

(c) Any district court to which venue is transferred shall proceed in the case as if the petition had been originally filed therein and shall cause notice of the change of venue to be given to the persons named in and in the same manner as provided for in K.S.A. 59-2963 and amendments thereto. In the event that notice of a change of location of a hearing due to a change of venue cannot be served at least 48 hours prior to any hearing previously scheduled by the transferring court or because of scheduling conflicts the hearing court be held by the receiving court on the previously scheduled date, then the receiving court shall continue the hearing for up to seven full working days to allow adequate time for notice to be given and the hearing held.

(d) Any district court to which venue is transferred, if not in the county of residence of the patient, shall transmit to the district court in the county of residence of the patient a statement of any court costs incurred and a certified copy of all pleadings and orders entered in the case after transfer.

Sec. 11. K.S.A. 45-406, 59-29a19, 59-29b67, 59-29b71, 59-2967, 59-2971, 75-3819 and K.S.A. 2008 Supp. 38-2305 and 59-29a08 are hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 11, after the semicolon by inserting "concerning electronic court documents;"; also in line 11, by striking "K.S.A. 45-406 and 75-3519" and inserting "K.S.A. 45-406, 59-29a19, 59-29b67, 59-29b71, 59-2967, 59-2917 and 75-3819 and K.S.A. 2008 Supp. 38-2305 and 59-29a08"; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

Recommended: SB 326; HB 2001, HB 2111, HB 2343, HB 2359 be passed.

HB 2164, HB 2250, HB 2308 be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee report on **HB 2072** recommending a **S Sub for HB 2072** be adopted, and the substitute bill be passed.

A motion by Senator Kultala to amend **S Sub for HB 2072** failed and the following amendment was rejected: on page 7, in line 38, by striking all after "(10)"; by striking all in lines 39 through 43;

On page 8, by striking all in lines 1 through 4; in line 5, by striking "(11)"; in line 10, by striking "(12)" and inserting "(11)"; in line 24, by striking "(13)" and inserting "(12)"; in line 26, by striking "(14)" and inserting "(13)"; in line 31, by striking "(15)" and inserting "(14)"; in line 35, by striking "(16)" and inserting "(15)"

The committee report on **HB 2097** recommending a **S Sub for HB 2097** be adopted, and the substitute bill be passed.

A motion by Senator Haley to amend **S Sub for HB 2097** failed and the following amendment was rejected: on page 1, following line 14, by inserting the following:

"New Section 1. (a) As used in this section:

(1) "Custodial interrogation" retains the meaning prescribed to it by the United States and Kansas Constitutions.

(2) "Place of detention" means a building under the control of a law enforcement unit, a courthouse holding facility for defendants in the custody of a jail or prison, a city or county

jail or work release facility, a state prison, or a state security hospital or a facility operated by the department of social and rehabilitation services for the purposes provided for under K.S.A. 59-29a02 et seq., and amendments thereto.

(3) "Video recording" means to capture the visual and audio components of an event in a manner that allows the event to be observed through that medium.

(b) (1) Effective July 1, 2009, except as provided in subsection (c), if a place of detention is equipped with one or more rooms capable of making a video recording, a video recording shall be made of a custodial interrogation conducted in such place of detention when the interrogation concerns an off-grid felony, a nondrug severity level 1 through 5 felony or a drug severity level 1 felony crime. The recording shall include the advice of rights. The recording shall not end until the interrogation is concluded. If the defendant elects to make or sign a written statement during the course of a custodial interrogation, the making and signing of the writing shall be recorded.

(2) Effective July I, 2010, except as provided in subsection (c), a video recording shall be made of a custodial interrogation conducted in any place of detention when the interrogation concerns an off-grid felony, a nondrug severity level 1 through 5 felony or a drug severity level 1 felony crime. The recording shall include the advice of rights. The recording shall not end until the interrogation is concluded. If the defendant elects to make or sign a written statement during the course of a custodial interrogation, the making and signing of the writing shall be recorded.

(c) A video recording of a statement under subsection (b) is not required if the oral, written or sign language statement was made:

(1) During an interrogation that was not recorded as required by subsection (b) because video recording was not feasible;

(2) spontaneously and not in response to a question;

(3) voluntarily, whether or not the result of an interrogation, and the statement has a bearing on the credibility of the accused as a witness;

(4) after questioning that is routinely asked during the processing of the arrest of a suspect;(5) in an interrogation outside the state of Kansas;

(6) at a time when the interrogators are unaware that an offense covered by subsection (b) has occurred; or

(7) at a time when the person being interrogated is not a suspect for the offense to which the statement relates while the person is being interrogated for an offense other than an offense specified in subsection (b).

(d) If the court finds by a preponderance of the evidence that the defendant was subjected to an interrogation in violation of this section, the defendant shall be entitled to a jury instruction on the failure to record the interrogation. If the defendant requests such an instruction, the court shall instruct the jury that it is the law of Kansas to make a video recording of a custodial interrogation of a person suspected of committing the offense charged.

(e) Every video recording required under this section shall be preserved until the defendant's conviction for an offense relating to the statement is final and all direct appeals are exhausted, or until the prosecution of offenses related to the recorded statement is barred by law, whichever occurs later.

(f) Every video recording of any statement as required by this section shall be confidential and exempt from the Kansas open records act in accordance with K.S.A. 45-221, and amendments thereto.";

And by renumbering sections accordingly;

In the title, in line 10, preceding "sentencing" by inserting "evidence and videotaping of felony interrogations;"

The committee report on **HB 2260** recommending a **S Sub for HB 2260** be adopted, and the substitute bill be passed.

HB 2155 be amended by motion Senator D. Schmidt, on page 1, in line 14, by striking "the city of Topeka, Kansas" and inserting "any city"; in line 15, by striking "of Topeka"; in line 17, by striking "of Topeka"; in line 19, by striking "of" where it appears the last time; in line 20, by striking "Topeka";

On page 3, in line 14, by striking "Shawnee" and inserting "the"; in line 15, by striking "Shawnee" and inserting "the";

In the title, in line 9, by striking "the city"; in line 10, by striking "of Topeka"; also in line 10, by striking "bank" and inserting "banks by cities", and **HB 2155** be passed as amended.

HB 2324 be amended by motion Senator Wysong, on page 3, after line 1, by inserting: "New Sec. 2. (a) The provisions of sections 2 through 12, and amendments thereto, shall be known and may be cited as the community improvement district act.

(b) The powers conferred by this act are for economic development purposes and any other purpose for which public money may be expended.

New Sec. 3. As used in this act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the context:

(a) "Act" means the provisions of sections 2 through 12, and amendments thereto.

(b) "Assessments" means special assessments imposed and levied pursuant to the provisions of this act.

(c) "Bonds" means special obligation bonds, special obligation notes, full faith and credit bonds or full faith and credit notes payable solely from the sources described in section 9, and amendments thereto, issued by a municipality in accordance with the provisions of this act.

(d) "Community improvement district sales tax" means the tax authorized by section 7, and amendments thereto.

(e) "Consultant" means engineers, architects, planners, attorneys, financial advisors and other persons deemed competent to advise and assist in the planning, making and financing of projects.

(f) "Cost" means: (1) All costs necessarily incurred for the preparation of preliminary reports, the preparation of plans and specifications, the preparation and publication of notices of hearings, resolutions, ordinances and other proceedings relating to the creation or administration of the district or the issuance of bonds therefore, necessary fees and expenses of consultants, interest accrued on borrowed money during the period of construction and the amount of a reserve fund for the bonds, together with the cost of land, materials, labor, and other lawful expenses incurred in planning and doing any project and may include a charge of not to exceed 5% of the total cost of the project or the cost of work done by the municipality to reimburse the municipality for the services rendered by the municipality in the administration and supervision of such project by its general officers; and (2) in the case of property and projects already owned by the municipality and previously financed by the issuance of bonds, "cost" means costs authorized by K.S.A. 10-116a, and amendments thereto.

(g) "District" means a community improvement district created pursuant to this act.

(h) "Governing body" means the governing body of a city or the board of county commissioners of a county.

(i) "Municipality" means any city or county.

(j) "Newspaper" means the official newspaper of the municipality.

(k) "Owner" means the owner or owners of record, whether resident or not, of real property within the district.

 (\overline{I}) "Pay-as-you-go financing" means a method of financing in which the costs of a project are financed without notes or bonds, and the costs of such project are thereafter reimbursed as moneys are deposited in the district fund described in section 10, and amendments thereto.

(m) "Project" means:

(1) Any project within the district to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend:

(A) Buildings, structures and facilities;

(B) sidewalks, streets, roads, interchanges, highway access roads, intersections, alleys, parking lots, bridges, ramps, tunnels, overpasses and underpasses, traffic signs and signals, utilities, pedestrian amenities, abandoned cemeteries, drainage systems, water systems, storm systems, sewer systems, lift stations, underground gas, heating and electrical services

and connections located within or without the public right-of-way, water mains and extensions and other site improvements;

(C) parking garages;

(D) streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers;

(E) parks, lawns, trees and other landscape;

(F) communication and information booths, bus stops and other shelters, stations, terminals, hangers, rest rooms and kiosks;

(G) paintings, murals, display cases, sculptures, fountains and other cultural amenities;

(H) airports, railroads, light rail and other mass transit facilities; and

(I) lakes, dams, docks, wharfs, lakes or river ports, channels and levies, waterways and drainage conduits.

(2) Within the district, to operate or to contract for the provision of music, news, childcare, or parking lots or garages, and buses, minibuses or other modes of transportation;

(3) Within the district, to provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons;

(4) Within the district, to provide or contract for cleaning, maintenance and other services to public or private property;

(5) Within the district, to produce and promote any tourism, recreational or cultural activity or special event, including, but not limited to, advertising, decoration of any public place in the district, promotion of such activity and special events and furnishing music in any public place;

(6) Within the district, to support business activity and economic development, including, but not limited to, the promotion of business activity, development and retention and the recruitment of developers and business;

 $\left(7\right)$ Within the district, to provide or support training programs for employees of businesses; and

(8) To contract for or conduct economic impact, planning, marketing or other studies.

New Sec. 4. (a) In addition to any other power provided by law and as a complete alternative to all other methods provided by law, the governing body of any municipality may create a district as provided by this act for the purpose of financing projects. Under this section, a municipality may create a district, or may modify a district previously created under this section, upon receipt of a petition that is signed by the owners of all of the land area within the proposed district, and is both (1) seeking financing only by assessments and (2) not seeking the issuance of full faith and credit bonds pursuant to this act. The petition shall contain:

(A) The general nature of the proposed project;

(B) the estimated cost of the project;

(C) the proposed method of financing the project;

(D) the proposed amount and method of assessment;

- (E) a map of the proposed district; and
- (F) a legal description of the boundaries of the proposed district.

(b) Names may not be withdrawn from the petitions by the signers thereof after the governing body commences consideration of the petitions or later than seven days after the filing of such petition with the clerk of the municipality, whichever occurs first. The petition shall contain a notice that: (1) The names of the signers may not be withdrawn after such a period of time; and (2) the signers consent to any assessments to the extent described therein without regard to benefits conferred by the project.

(c) Upon filing of the petition pursuant to this section, the governing body may proceed without notice or a hearing to make findings by resolution or ordinance as to the nature, advisability and estimated cost of the project, the boundaries of the district and the amount and method of assessment. Upon making such findings, the governing body by majority vote may authorize the project in accordance with such findings as to the advisability of the project. The resolution or ordinance shall be effective upon publication once in the newspaper.

(d) The district boundaries and the method of financing for the project shall not require that all property that is benefited by the project, whether the benefited property is within or without the district, be included in the district or be subject to an assessment.

(e) Following authorization of the project, the ordinance or resolution establishing the district shall be submitted for recording in the office of the register of deeds of the county in which the district is located.

New Sec. 5. (a) In addition to any other power provided by law and as a complete alternative to all other methods provided by law, the governing body of any municipality may create a district as provided by this act for the purpose of financing projects. As an alternative to the requirements and procedures described in section 4, and amendments thereto, under this section, a municipality may create a district, or may modify a district previously created under this section, upon receipt of a petition that is signed by the owners of more than 55% of the land area within the proposed district, and signed by owners collectively owning more than 55% by assessed value of the land area within the proposed district. Under this section, the petition may be seeking financing in whole or in part by a proposed community improvement district sales tax authorized by section 7, and amendments thereto, or seeking the issuance of full faith and credit bonds authorized by section 12, and amendments thereto, or both. The petition shall contain:

(1) The general nature of the proposed project;

(2) the estimated cost of the project;

(3) the proposed method of financing the project including, if applicable, the issuance of full faith and credit bonds;

(4) the proposed amount and method of assessment, if any;

(5) the proposed amount of community improvement district sales tax, if any;

(6) a map of the proposed district; and

(7) a legal description of the proposed district.

(b) Names may not be withdrawn from the petitions by the signers thereof after the governing body commences consideration of the petitions or later than seven days after the filing of such petition with the clerk of the municipality, whichever occurs first. The petition shall contain a notice that: (1) The names of the signers may not be withdrawn after such a period of time; and (2) if applicable, the signers consent to any assessments to the extent described therein without regard to benefits conferred by the project.

(c) Upon filing of the petition pursuant to this section, the municipality shall adopt a resolution to give notice of a public hearing on the advisability of creating or modifying the district. Such resolution shall be published at least once each week for two consecutive weeks in the newspaper and shall be sent by certified mail to all owners. The second publication of such resolution shall occur at least seven days prior to the date of hearing and the certified mailed notice shall be sent at least ten days prior to the date of hearing. Such resolution shall contain the following information:

(1) The time and place of the hearing;

(2) the general nature of the proposed project;

(3) the estimated cost of the project;

(4) the proposed method of financing the project including, if applicable, the issuance of full faith and credit bonds;

(5) the proposed amount of the community improvement district sales tax, if any;

(6) the proposed amount and method of assessment, if any;

(7) a map of the proposed district; and

(8) a legal description of the proposed district.

(d) The hearing on the advisability of creating or modifying the district may be adjourned from time to time. Following the hearing or any continuation thereof, the governing body by majority vote may create the district by adoption of an ordinance or resolution. Such ordinance or resolution shall authorize the project, approve the estimated cost of the project, contain the legal description of the district, contain a map of the district, levy the community improvement district sales tax, if applicable, approve the maximum amount and method of assessment, if applicable, and approve the method of financing including, if applicable, the issuance of full faith and credit bonds. Such ordinance or resolution shall become effective upon publication once in the newspaper. (e) The district boundaries and the method of financing for the project shall not require that all property that is benefited by the project, whether the benefited property is within or without the district, be included in the district or be subject to an assessment or the community improvement district sales tax.

(f) Following authorization of the project, the ordinance or resolution establishing the district shall be submitted for recording in the office of the register of deeds of the county in which the district is located.

New Sec. 6. (a) In addition to any other power provided by law and as a complete alternative to all other methods provided by law, the governing body may make, or cause to be made, projects identified in the petition submitted pursuant to either section 4 or section 5, and amendments thereto, and may levy and collect special assessments upon property in the district and provide for the payment of all or any part of the cost of the project out of the proceeds of such special assessments. If special assessments shall be levied to finance all or a portion of the cost of a project, the municipality shall follow the procedures in K.S.A. 12-6a01 et seq., and amendments thereto, to levy such assessments except that no assessments may be levied against the municipality at large and annual installments of the assessments may be levied as provided in subsection (b).

(b) If the method of financing for the project includes payment from the sources described in subsections (c) or (e) of section 9, and amendments thereto, the ordinance or resolution of the municipality that authorizes the levy of special assessments may provide that the annual installments of such assessment for any year may be reduced or eliminated to the extent that, prior to the date the municipality certifies the tax levy of the municipality to the county clerk pursuant to K.S.A. 79-1801, and amendments thereto, the municipality has received sufficient funds from the sources described in subsections (c) and (e) of section 9, and amendments thereto, to pay the debt service on any bonds issued under the provisions of this act, and amendments thereto, for the project which would have been paid by such annual installment. The municipality is not required to refund any prepayment of assessments after such prepayment is made to the municipality, and any prepayment of assessments under this section shall be in compliance with the provisions of K.S.A. 10-115, and amendments thereto.

New Sec. 7. (a) In addition to and notwithstanding any limitations on the aggregate amount of the retailers' sales tax contained in K.S.A. 12-187 through 12-197, and amendments thereto, any municipality may impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailers' sales tax act, and amendments thereto, within a community improvement district for purposes of financing a project in such district in any increment of .10% or .25% not to exceed 2% and pledging the revenue received therefrom to pay the bonds issued for the project or to reimburse the cost of the project pursuant to pay-as-you-go financing. In the event bonds are issued to finance a project or refunding bonds issued therefore, the community improvement district sales tax imposed pursuant to this section shall expire no later than the date such bonds shall mature. In the event pay-as-you-go financing is utilized, the community improvement district sales tax shall expire 22 years from the date the state director of taxation begins collecting such tax or when the project bonds or pay-as-you-go costs have been paid. Except as otherwise provided by the provisions of section 3 et seq., and amendments thereto, the tax authorized by this section shall be administered, collected and subject to the provisions of K.S.A. 12-187 through 12-197, inclusive, and amendments thereto.

(b) Upon receipt of a certified copy of the resolution or ordinance authorizing the levy of the community improvement district sales tax pursuant to this section, the state director of taxation shall cause such tax to be collected in the district at the same time and in the same manner provided for the collection of the state retailers' sales tax. All of the taxes collected under the provisions of this act shall be remitted by the secretary of revenue to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, and the state treasurer shall credit 2% of all taxes so collected to the community improvement district sales tax administration fund, which fund is hereby established in the state treasury, to defray the expenses of the department of revenue in

administration and enforcement of the collection thereof. The aggregate amount of moneys credited to the community improvement district sales tax administration fund shall not exceed \$60,000 in any state fiscal year. The remainder of such taxes shall be credited to the community improvement district sales tax fund, which fund is hereby established in the state treasury. All moneys in the community improvement district sales tax fund, which fund is hereby established in the state treasurers of those municipalities which are qualified to receive disbursements from such fund for the amount collected within such municipality. Any refund due on any community improvement district sales tax collected pursuant to this section shall be paid out of the community improvement district sales tax authorized by the state treasuring from collections of the community improvement district sales tax authorized by this section. Community improvement district sales tax fund created pursuant to section shall be deposited in the community improvement district sales tax fund readed by this section. Community improvement district sales tax fund created pursuant to section shall be deposited in the community improvement district sales tax fund created pursuant to section 10, and amendments thereto.

(c) Notwithstanding any other provisions of law to the contrary, copies of all retailers' sales and use tax returns filed with the secretary of revenue in connection with a district for which sales or use tax revenues, or both, are pledged or otherwise intended to be used in whole or in part for the payment of bonds issued to finance costs of a project, shall be provided by the secretary of revenue to the bond trustee, escrow agent or paying agent for such bonds upon a written request of the municipality within 15 days of receipt by the secretary of revenue. The bond trustee, escrow agent or paying agent shall keep such retailers' sales and use tax returns and the information contained therein confidential, but may use such information for purposes of allocating and depositing such sales and use tax revenues in connection with the bonds used to finance costs of a project. Except as otherwise provided herein, the sales and use tax returns received by the bond trustee, escrow agent or paying agent shall be subject to the provisions of K.S.A. 79-3614, and amendments thereto.

New Sec. 8. No suit to set aside the assessments or otherwise question the validity of the proceedings for the creation of the district or the authorization of the project shall be brought after the expiration of 30 days from the publication of the ordinance or resolution creating the district. No suit to set aside the community improvement district sales tax shall be brought after the expiration of 30 days from the publication of the ordinance or resolution declaring the intent to impose the community improvement district sales tax. No protest petition pertaining to the issuance of full faith and credit bonds, as described in section 12, and amendments thereto, shall be brought after the expiration of 60 days following the date of the public hearing described in section 5, and amendments thereto.

New Sec. 9. The cost of all or a portion of any project authorized pursuant to this act shall be paid from all or any of the following sources:

(a) A pledge of special assessments imposed in the district pursuant to this act which have been paid in full prior to the date set aside by the governing body as provided in K.S.A. 12-6a10, and amendments thereto.

(b) A pledge of special assessments imposed in the district pursuant to this act, to be paid in installments.

(c) A pledge of all of the revenue received from the community improvement district sales tax authorized by section 7, and amendments thereto.

(d) A pledge of a municipality's full faith and credit to use its ad valorem taxing authority for the repayment of full faith and credit bonds issued pursuant to section 12, and amendments thereto.

(e) Any other funds appropriated by the municipality for the purpose of paying project costs including the principal and interest of bonds issued pursuant to this act.

New Sec. 10. A separate fund shall be created for each district and such fund shall be identified by a suitable title. Community improvement district sales tax remitted to the municipality pursuant to section 7, and amendments thereto, special assessments paid to the municipality pursuant to this act, proceeds from the sale of bonds issued pursuant to this act, and any other moneys appropriated by the governing body for the purpose of paying project costs, including the principal of and interest on bonds issued pursuant to this act,

shall be credited to such fund. Such fund shall be used solely to pay the cost of the project through either the issuance of bonds or pay-as-you-go financing, and shall not be limited by the estimated cost amount listed in the ordinance or resolution authorizing the project. In the event moneys remain in the fund after the expiration of the community improvement district sales tax, such moneys shall continue to be used solely to pay the cost of the project. Upon payment of all project costs and principal of and interest on any bonds issued for such district, the municipality shall have the authority to spend any moneys remaining in such fund for the purposes for which local sales tax receipts may be spent.

New Sec. 11. (a) Any municipality may issue special obligation bonds in one or more series to finance any project in accordance with the provisions of this act. Such bonds shall be made payable, both as to principal and interest solely from a pledge of the sources of funds described in subsections (a), (b), (c) and (e) of section 9, and amendments thereto. The municipality may pledge such revenue to the repayment of such bonds prior to, simultaneously with or subsequent to the issuance of such bonds, except for any revenues received under the provisions of subsection (e) of section 9 and amendments thereto, which revenues are subject to annual appropriation.

(b) Bonds issued pursuant to this section shall not be general obligations of the municipality, give rise to a charge against its general credit or taxing powers, or be payable out of any funds or properties other than any of those set forth in subsections (a), (b), (c) and (e) of section 9, and amendments thereto, and such bonds shall so state on their face.

(c) Bonds issued pursuant to this section shall be special obligations of the municipality and are declared to be negotiable instruments. Such bonds shall be executed by the authorized representatives of the municipality and sealed with the corporate seal of the municipality. All details pertaining to the issuance of the bonds and terms and conditions thereof shall be determined by ordinance or resolution of the municipality. The provisions of K.S.A. 10-106, and amendments thereto, requiring a public sale of bonds shall not apply to bonds issued under this section. All bonds issued pursuant to this section and all income or interest therefrom shall be exempt from all state taxes except inheritance taxes. Such bonds shall contain none of the recitals set forth in K.S.A. 10-112, and amendments thereto. Such bonds shall contain the following recitals: The authority under which such bonds are issued; that such bonds are in conformity with the provisions, restrictions and limitations thereof and that such bonds and the interest thereon are to be paid from the money and revenue received as provided in this section. Such bonds shall mature in no more than 22 years.

(d) Any municipality issuing bonds under the provisions of this section may refund all or part of such bonds pursuant to the provisions of K.S.A. 10-116a, and amendments thereto. (e) Bonds issued under the provisions of this section shall be in addition to and not subject to any statutory limitation of bonded indebtedness imposed on such municipality.

New Sec. 12. (a) Any municipality may issue full faith and credit bonds in one or more series to finance any project in accordance with the provisions of this act and to refinance or refund any notes or bonds issued pursuant to this act. Bonds issued pursuant to this section shall be general obligations of the municipality and give rise to a charge against its general credit and taxing powers, and such bonds shall so state on their face. Such bonds shall be made payable, both as to principal and interest solely from a pledge of the sources of funds described in section 9, and amendments thereto, including a pledge of a municipality's full faith and credit to use its ad valorem taxing authority for the repayment thereof in the event all other authorized sources of revenue are not sufficient. The municipality may pledge such revenue to the repayment of such bonds prior to, simultaneously with or subsequent to the issuance of such bonds.

(b) Bonds issued pursuant to this section shall be general obligations of the municipality and are declared to be negotiable instruments. Such bonds shall be executed by the authorized representatives of the municipality and sealed with the corporate seal of the municipality. All details pertaining to the issuance of the bonds and terms and conditions thereof shall be determined by ordinance or resolution of the municipality. The provisions of K.S.A. 10-106, and amendments thereto, requiring a public sale of bonds shall not apply to bonds issued under this section. All bonds issued pursuant to this section and all income or interest therefrom shall be exempt from all state taxes except inheritance taxes. Such bonds shall contain the recitals set forth in K.S.A. 10-112, and amendments thereto. Such bonds shall mature in no more than 22 years. Any municipality issuing bonds under the provisions of this section may refund all or part of such bonds pursuant to the provisions of K.S.A. 10-427, and amendments thereto.

(c) The amount of the full faith and credit bonds issued and outstanding under this act which exceeds 3% of the assessed valuation of the municipality shall be within the bonded debt limit applicable to such municipality.

(d) If, within 60 days following the date of the public hearing described in section 5, and amendments thereto, a protest petition signed by 5% of the qualified voters of the municipality is filed with the municipality's clerk in accordance with the provisions of K.S.A. 25-3601 et seq., and amendments thereto, no full faith and credit bonds shall be issued until the issuance of the full faith and credit bonds is approved by a majority of the voters voting at an election thereon. The failure of the voters to approve the issuance of full faith and credit bonds shall not prevent a municipality from issuing special obligation bonds.";

And by renumbering sections accordingly;

In the title, in line 11, before "amending" by inserting "sales tax for community improvement districts; community improvement district act;", and **HB 2324** be passed as amended.

SB 184 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Bruce, on page 1, in line 15, by striking "6" and inserting "3"; in line 17, after "act" by inserting "and in K.S.A. 55-155, 55-173 and K.S.A. 2008 Supp. 55-151";

On page 4, in line 19, after the stricken material by inserting "or gas gathering system or for underground porosity storage of natural gas to another person"; in line 20, after "commission" by inserting "in accordance with rules and regulations of the commission"; in line 26, by striking all after the period; in line 27, by striking "not required" and inserting "The commission need not send a copy of notice to the surface owner";

On page 5, in line 18, after the period by inserting "The surface owner upon whose land such well is located may file with the commission a desire to be notified when any such well is abandoned.", and **Sub SB 184** be passed as amended.

On motion of Senator D. Schmidt, the Senate recessed until 1:30 p.m.

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

Announcing passage of HB 2275, HB 2283, HB 2323, HB 2353, HB 2360, HB 2383; HCR 5015.

Announcing passage of **SB 8, SB 61, SB 78, SB 108, SB 120, SB 135, SB 203, SB 290.** Passage of **SB 9**, as amended, **SB 30**, as amended, **SB 33**, as amended, **SB 35**, as amended, **SB 39**, as amended, **SB 41**, as amended, **SB 44**, as amended, **SB 45**, as amended, **SB 60**, as amended, **SB 66**, as amended, **SB 7**, as amended, **SB 134**, as amended, **SB 154**, as amended, **SB 158**, as amended, **SB 237**, as amended, **SB 253**, as amended, **SB 275**, as amended.

Also, passage of SB 28, as amended by House Substitute for SB 28; SB 51, as amended by House Substitute for SB 51; SB 98, as amended by House Substitute for SB 98; SB 168, as amended by House Substitute for SB 168.

The House concurs in Senate amendments to HB 2002.

The House concurs in Senate amendments to HB 2258.

The House nonconcurs in Senate amendments to **Senate Substitute for HB 2354**, requests a conference and appoints Representatives Yoder, Watkins and Feuerborn as conferees on the part of the House.

The House adopts the Conference Committee Report to agree to disagree to Senate Substitute for Substitute HB 2014 and has appointed Representatives Carl Holmes, Knox and Kuether as second conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2275, HB 2283, HB 2323, HB 2353, HB 2360, HB 2383; HCR 5015 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator McGinn moved the Senate concur in house amendments to SB 64.

SB 64, An act concerning the Kansas water appropriation act; amending K.S.A. 82a-705, 82a-707 and 82a-709 and K.S.A. 2008 Supp. 82a-701 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

Senator Teichman moved the Senate concur in house amendments to SB 72.

SB 72, An act concerning credit unions; pertaining to membership of a credit union; amending K.S.A. 2008 Supp. 17-2205 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Pilcher-Cook, Pyle.

The Senate concurred.

Senator Owens moved the Senate concur in house amendments to SB 85.

SB 85, An act concerning the secretary of state; relating to return of filings to corporations and limited partnerships; amending K.S.A. 17-6003, 17-7301, 17-7678 and 56-1a156 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

Senator Teichman moved the Senate concur in house amendments to SB 163.

SB 163, An act amending the consumer protection act; amending K.S.A. 50-624 and 50-626 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

Senator Brungardt moved the Senate concur in house amendments to SB 178.

SB 178, An act concerning amusement rides; amending K.S.A. 2008 Supp. 44-1601 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **SB 19** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, D. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **Sub SB 28** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, D. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Emler the Senate nonconcurred in the House amendments to **SB 30** and requested a conference committee be appointed.

The Vice President appointed Senators Vratil, McGinn and Kelly as a conference committee on the part of the Senate.

On motion of Senator Barnett the Senate nonconcurred in the House amendments to **SB 33** and requested a conference committee be appointed.

The Vice President appointed Senators Barnett, V. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **SB 41** and requested a conference committee be appointed.

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

On motion of Senator Owens the Senate nonconcurred in the House amendments to **SB 44** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, D. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **SB 45** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, D. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **SB 87** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, D. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Donovan the Senate nonconcurred in the House amendments to **SB 97** and requested a conference committee be appointed.

The Vice President appointed Senators Donovan, Lynn and Holland as a conference committee on the part of the Senate.

On motion of Senator Donovan the Senate nonconcurred in the House amendments to **H Sub for SB 98** and requested a conference committee be appointed.

The Vice President appointed Senators Donovan, D. Schmidt and Holland as a conference committee on the part of the Senate.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **SB 134** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, D. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **SB 154** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, D. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **SB 158** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, Schodorf and Haley as a conference committee on the part of the Senate.

On motion of Senator V. Schmidt the Senate nonconcurred in the House amendments to **H Sub for SB 168** and requested a conference committee be appointed.

The Vice President appointed Senators V. Schmidt, Apple and Kelly as a conference committee on the part of the Senate.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **SB 237** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, D. Schmidt and Haley as a conference committee on the part of the Senate.

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

The Vice President appointed Senators Reitz, Wagle and Kultala as a conference committee on the part of the Senate.

On motion of Senator Teichman the Senate nonconcurred in the House amendments to **SB 275** and requested a conference committee be appointed.

The Vice President appointed Senators Teichman, Brownlee and Steineger as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Schodorf, the Senate acceded to the request of the House for a conference on **Substitute for HB 2008**.

The Vice President appointed Senators Schodorf, Vratil and Hensley as conferees on the part of the Senate.

On motion of Senator Apple, the Senate acceded to the request of the House for a conference on **S Substitute for HB 2126**.

The Vice President appointed Senators Apple, Petersen and Lee as conferees on the part of the Senate.

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **HB 2172**.

The Vice President appointed Senators Donovan, D. Schmidt and Holland as conferees on the part of the Senate.

On motion of Senator Teichman, the Senate acceded to the request of the House for a conference on **HB 2214**.

The Vice President appointed Senators Teichman, Brownlee and Steineger as conferees on the part of the Senate.

On motion of Senator Emler, the Senate acceded to the request of the House for a conference on **S Substitute for HB 2219**.

The Vice President appointed Senators Emler, Vratil and Kelly as conferees on the part of the Senate.

On motion of Senator Teichman, the Senate acceded to the request of the House for a conference on **HB 2292**.

The Vice President appointed Senators Teichman, Brownlee and Steineger as conferees on the part of the Senate.

On motion of Senator Emler, the Senate acceded to the request of the House for a conference on **S Substitute for HB 2354**.

The Vice President appointed Senators Emler, McGinn and Kelly as conferees on the part of the Senate.

CHANGE OF CONFEREE

Vice President Vratil announced the appointment of Senator Hensley as a member of the Conference Committee on **H Sub for SB 168** to replace Senator Kelly.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Lee introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1861-

JOURNAL OF THE SENATE

A RESOLUTION congratulating and commending the Smith Center High School football team.

WHEREAS, The Smith Center High School football team won the 2008 Class 2-1A State Championship 48-19 over Olpe High School; and

WHEREAS, The win gave the Smith Center Redmen their fifth consecutive State Championship and their 67th consecutive win, setting a new record in Kansas; and

WHÊREAS, The Redmen's 67th consecutive victory came four years and two days after Smith Center stood on the same field and brought Pittsburgh Colgan's 66-game winning streak to an end; and

WHEREAS, By winning their 67th consecutive game and 5th straight State Championship, the Redmen cemented their legacy as the greatest dynasty in the history of Kansas high school football; and

WHEREAS, The Redmen are led by Head Coach Roger Barta who has used his experience and expertise to guide Smith Center during this prolonged winning streak; and

WHEREAS, During his 31 seasons leading the Redmen, Coach Barta has amassed an astounding 289-58 record; and

WHEREAS, Seniors Ethan Eastes, Kris Lehmann, Kalen Mace, Marshall McCall, Brit Nixon, Justin Nixon, Travis Rempe, Trevor Rempe, Shawn Stansbury, Trenton Terrill, Johny Troy and Cody Tucker all went through their entire varsity career without losing a single game; and

WHEREAS, This championship and winning streak are testaments to the dedication and hard work put in by every member of the Smith Center football team: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Smith Center High School football team for winning its fifth consecutive State Championship and that we wish the team luck in continuing its impressive winning streak; and

Be it further resolved: That the Secretary of the Senate be directed to provide 63 enrolled copies of this resolution to Senator Janis Lee.

On emergency motion of Senator Lee SR 1861 was adopted unanimously.

Senator Lee introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1862-

A RESOLUTION congratulating and commending

the Smith Center High School wrestling team.

WHEREAS, The Smith Center Redmen won the 2009 Class 3-2-1A Wrestling State Championship with 134.5 team points, beating second place Beloit High School by more than 25 points; and

WHEREAS, The Redmen have won three consecutive wrestling championships, making them the first school in Kansas to win three consecutive championships in wrestling and football at the same time; and

WHEREAS, The team members are Marshall McCall, Travis Rempe, Colt Rogers, Matt Atwood, Trevor Rempe, Kris Lehmann, Kale Newell and Shawn Stansbury; and

WHEREAS, The team has received excellent guidance and instruction from Head Coach Brock Hutchinson and Assistant Coach Nate Smith; and

WHEREAS, The Redmen's dominating performance was led by its Seniors, with Colt Rogers winning the 130 pound weight class, Marshall McCall winning the 152 pound weight class, Travis Rempe winning the 160 pound weight class and Trevor Rempe finishing second in the 145 pound weight class; and

WHEREAS, The consistent level of excellence exhibited by the Smith Center Redmen is a testament to their hard work and dedication: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Smith Center Redmen for another outstanding season and that we wish them future success; and

Be it further resolved: That the Secretary of the Senate be directed to provide ten enrolled copies of this resolution to Senator Janis Lee.

On emergency motion of Senator Lee SR 1862 was adopted unanimously.

Senator Lee introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1863-

A RESOLUTION congratulating and commending Jered Rice.

WHEREAS, Jered Rice won the 2009 Class 3-2-1A State Wrestling Championship for the 285 pound weight class; and

WHEREAS, Jered Rice, a Junior at Phillipsburg High School, pinned Cody Huffman of Douglass High School to win the State Championship; and

WHEREAS, The victory at the State Tournament gave Jered Rice a season record of 32-1; and

WHEREAS, Despite only having three wrestlers at the State Tournament, Jered Rice's superb showing helped Phillipsburg finish in 10th place out of 65 teams; and

WHEREAS, The hard work and perseverance required to win an individual state wrestling championship make Jered's victory truly remarkable: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Jered Rice for winning the 3-2-1A State Wrestling Championship and that we wish him continued success; and

Be it further resolved: That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator Janis Lee.

On emergency motion of Senator Lee SR 1863 was adopted unanimously.

REPORT ON ENGROSSED BILLS

SB 92, SB 94, SB 146, SB 201, SB 298, SB 316, SB 324; SCR 1602 reported correctly engrossed March 25, 2009.

COMMITTEE OF THE WHOLE

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

On motion of Senator Schodorf the report for the morning and the following afternoon session were adopted:

Recommended: HB 2059, HB 2165 be passed.

A motion by Senator Faust-Goudeau to amend **HB 2059** failed and the following amendment was rejected: on page 1, following line 14, by inserting the following:

"Section 1. K.S.A. 2008 Supp. 60-4117 is hereby amended to read as follows: 60-4117. Except as provided in K.S.A. 65-7014, and amendments thereto: (a) When property is forfeited under this act, the law enforcement agency may:

(1) Retain such property for official use or transfer the custody or ownership to any local, state or federal agency, subject to any lien preserved by the court;

(2) destroy or use for investigative or training purposes, any illegal or controlled substances and equipment or other contraband, provided that materials necessary as evidence shall be preserved;

(3) sell property which is not required by law to be destroyed and which is not harmful to the public:

(A) All property, except real property, designated by the seizing agency to be sold shall be sold at public sale to the highest bidder for cash without appraisal. The seizing agency shall first cause notice of the sale to be made by publication at least once in an official county newspaper as defined by K.S.A. 64-101, and amendments thereto. Such notice shall include the time, place, and conditions of the sale and description of the property to be sold. Nothing in this subsection shall prevent a state agency from using the state surplus property system and such system's procedures shall be sufficient to meet the requirements of this subsection.

(B) Real property may be sold pursuant to subsection (A), or the seizing agency may contract with a real estate company, licensed in this state, to list, advertise and sell such real property in a commercially reasonable manner.

 (\overline{C}) No employee or public official of any agency involved in the investigation, seizure or forfeiture of seized property may purchase or attempt to purchase such property; or

(4) salvage the property, subject to any lien preserved by the court.

(b) When firearms are forfeited under this act, the firearms in the discretion of the seizing agency, shall be destroyed, used within the seizing agency for official purposes, traded to

another law enforcement agency for use within such agency or given to the Kansas bureau of investigation for law enforcement, testing, comparison or destruction by the Kansas bureau of investigation forensic laboratory.

(c) The proceeds of any sale shall be distributed in the following order of priority:

(1) For satisfaction of any court preserved security interest or lien, or in the case of a violation, as defined by subsection (h) of K.S.A. 60-4104, and amendments thereto, the proceeds shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount into the state treasury to the credit of the medicaid fraud reimbursement fund;

(2) thereafter, for payment of all proper expenses of the proceedings for forfeiture and disposition, including expenses of seizure, inventory, appraisal, maintenance of custody, preservation of availability, advertising, service of process, sale and court costs;

(3) reasonable attorney fees:

(A) If the plaintiff's attorney is a county or district attorney, an assistant, or another governmental agency's attorney, fees shall not exceed 15% of the total proceeds, less the amounts of subsection (c)(1) and (2), in an uncontested forfeiture nor 20% of the total proceeds, less the amounts of subsection (c)(1) and (2), in a contested forfeiture. Such fees shall be deposited in the county or city treasury and credited to the special prosecutor's trust fund. Moneys in such fund shall not be considered a source of revenue to meet normal operating expenditures, including salary enhancement. Such fund shall be expended by the county or city appropriation system and shall be used for such additional law enforcement and prosecutorial purposes as the county or district attorney or other governmental agency's attorney deems appropriate, including educational purposes. All moneys derived from past or pending forfeitures shall be expended pursuant to this act. The board of county commissioners shall provide adequate funding to the county or district attorney's office to enable such office to adopting a county or district attorney's budget;

(B) if the plaintiff's attorney is the attorney general and the conduct and offense giving rise to forfeiture is pursuant to subsection (h) of K.S.A. 60-4104, and amendments thereto, fees shall not exceed 15% of the total proceeds, less the amounts of subsection (c)(1) and (2) in an uncontested forfeiture nor 20% of the total proceeds, less the amounts of subsection (c)(1) and (2) in a contested forfeiture. Such fees shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the medicaid fraud prosecution revolving fund. Moneys paid into the medicaid fraud prosecution revolving fund pursuant to this subsection shall be appropriated to the attorney general for use by the attorney general in the investigation and prosecution of medicaid fraud and abuse; or

(C) if the plaintiff's attorney is a private attorney, such reasonable fees shall be negotiated by the employing law enforcement agency;

(4) repayment of law enforcement funds expended in purchasing of contraband or controlled substances, subject to any interagency agreement.

(d) *Subject to the provisions of subsection (e),* any proceeds remaining shall be credited as follows, subject to any interagency agreement:

(1) If the law enforcement agency is a state agency, the entire amount shall be deposited in the state treasury and credited to such agency's state forfeiture fund. There is hereby established in the state treasury the following state funds: Kansas bureau of investigation state forfeiture fund, Kansas attorney general's state medicaid fraud forfeiture fund, Kansas highway patrol state forfeiture fund, Kansas department of corrections state forfeiture fund and Kansas national guard counter drug state forfeiture fund. Expenditures from the Kansas bureau of investigation state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general. Expenditures from the Kansas attorney general's state medicaid fraud forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general of the di-

or by a person or persons designated by the attorney general. Expenditures from the Kansas highway patrol state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the superintendent of the highway patrol or by a person or persons designated by the superintendent. Expenditures from the Kansas department of corrections state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the department of corrections or by a person or persons designated by the secretary. Expenditures from the Kansas national guard counter drug state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the adjutant general of Kansas or by a person or persons designated by the adjutant general. Each agency shall compile and submit a forfeiture fund report to the legislature on or before February 1 of each year. Such report shall include, but not be limited to: (A) The fund balance on December 1; (B) the deposits and expenditures for the previous 12-month period ending December 1. Upon the effective date of this act, the director of accounts and reports is directed to transfer each agency's balance in the state special asset forfeiture fund to the agency's new, state forfeiture fund. All liabilities of the state special asset forfeiture fund existing prior to such date are hereby imposed on the Kansas bureau of investigation state forfeiture fund, Kansas highway patrol state forfeiture fund and the Kansas department of corrections state forfeiture fund. The state special asset forfeiture fund is hereby abolished.

(2) If the law enforcement agency is a city or county agency, the entire amount shall be deposited in such city or county treasury and credited to a special law enforcement trust fund. Each agency shall compile and submit annually a special law enforcement trust fund report to the entity which has budgetary authority over such agency and such report shall specify, for such period, the type and approximate value of the forfeited property received, the amount of any forfeiture proceeds received, and how any of those proceeds were expended.

(3) Moneys in the Kansas bureau of investigation state forfeiture fund, Kansas highway patrol state forfeiture fund, Kansas department of corrections state forfeiture fund, the special law enforcement trust funds and the Kansas national guard counter drug state forfeiture fund shall not be considered a source of revenue to meet normal operating expenses. Such funds shall be expended by the agencies or departments through the normal city, county or state appropriation system and shall be used for such special, additional law enforcement purposes as the law enforcement agency head deems appropriate. Neither future forfeitures nor the proceeds from such forfeitures shall be used in planning or adopting a law enforcement agency's budget.

(4) Moneys in the Kansas attorney general's medicaid fraud forfeiture fund shall defray costs of the attorney general in connection with the duties of investigating and prosecuting medicaid fraud and abuse.

(e) Before credited pursuant to subsection (d), 5% of proceeds derived from any violation of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas department of social and rehabilitation services state forfeiture fund, which is hereby created. Moneys in the Kansas department of social and rehabilitation services state forfeiture fund shall be used to assist children affected by violations of the uniform controlled substances act. Expenditures from the Kansas department of social and rehabilitation services state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the department of social and rehabilitation services or by a person or persons designated by the secretary.";

And by renumbering sections accordingly;

On page 2, in line 20, by striking "is" and inserting "and K.S.A. 2008 Supp. 60-4117 are"; In the title, in line 10, by striking all following "act"; in line 11, by striking "jurisdiction"; also in line 11, following "65-4142" by inserting "and K.S.A. 2008 Supp. 60-4117"; in line 12, by striking "section" and inserting "sections" The committee report on **HB 2115** recommending a **Senate Sub for HB 2115** be adopted, and the substitute bill be passed.

HB 2162 be amended by motion Senator Barnett, on page 1, after line 14, by inserting the following:

"Section 1. K.S.A. 2008 Supp. 65-6313 is hereby amended to read as follows: 65-6313. (a) All licenses issued shall be effective upon the date issued and shall expire at the end of 24 months from the date of issuance.

(b) Except as otherwise provided in K.S.A. 65-6311 and amendments thereto:

(1) Except as provided in paragraph (2), a license may be renewed by the payment of the renewal fee set forth in K.S.A. 65-6314 and amendments thereto and the execution and submission of a signed statement, on a form to be provided by the board, attesting that the applicant's license has been neither revoked nor currently suspended and that applicant has met the requirements for continuing education established by the board including not less than three continuing education hours of professional ethics. An applicant for renewal of a license as a master social worker or a specialist clinical social worker, as part of such continuing education, shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders.

(2) On and after January 1, 2010, an applicant for first time renewal of a license as a baccalaureate social worker, master social worker or specialist clinical social worker, as part of such continuing education, shall complete not less than six hours of social worker safety training, including self-protection maneuvers. If the applicant has already taken such a training, as part of a previous level of social worker licensure renewal, such applicant is not required to complete an additional six hours of social worker safety training.

(c) The application for renewal shall be made on or before the date of the expiration of the license or on or before the date of the termination of the period of suspension.

(d) If the application for renewal, including payment of the required renewal fee, is not made on or before the date of the expiration of the license, the license is void, and no license shall be reinstated except upon payment of the required renewal fee established under K.S.A. 65-6314 and amendments thereto, plus a penalty equal to the renewal fee, and proof satisfactory to the board of the completion of 40 hours of continuing education within two years prior to application for reinstatement. Upon receipt of such payment and proof, the board shall reinstate the license. A license shall be reinstated under this subsection, upon receipt of such payment and proof, at any time after the expiration of such license.

(e) In case of a lost or destroyed license, and upon satisfactory proof of the loss or destruction thereof, the board may issue a duplicate license and shall charge a fee as set forth in K.S.A. 65-6314 and amendments thereto for such duplicate license.";

And by renumbering the remaining sections accordingly;

On page 4, in line 41, after "74-5310" by inserting "and K.S.A. 2008 Supp. 65-6313";

In the title, in line 10, by striking all after the semicolon; in line 11, by striking all before the semicolon and inserting "licensure requirements of behavioral sciences regulatory board"; also in line 11, after "and" where it appears the last time, by inserting "K.S.A. 2008 Supp. 65-6313 and"

IB 2162 be further amended by motion Senator Lynn, on page 1, following line 14, by inserting the following:

"Section 1. (a) The Kansas autism task force established pursuant to section 1 of chapter 182 of the 2007 Session Laws of Kansas is hereby re-established. Subject to the provisions of subsection (b), the task force shall be made up of the following members:

(1) Four members appointed by the president of the senate. Of such members, one shall be a member of the Kansas senate; one shall be a psychiatrist; one shall be a member of the faculty at the department of applied behavioral science at the university of Kansas with a specialization in the area of autism; and one shall be a behavioral analyst who has been certified by the behavioral analyst certification board with a specialization in the area of autism and shall have at least five-years experience in providing early intensive intervention to children with autism in a private-practice setting;

(2) three members appointed by the minority leader of the senate. Of such members, one shall be a member of the Kansas senate; one shall be a parent of a child with autism;

and one shall be a special education teacher with a specialization in the area of autism and shall have at least five-years experience in teaching children with autism;

(3) four members appointed by the speaker of the house of representatives. Of such members, one shall be a member of the Kansas house of representatives; one shall be a parent of a child with autism; one shall be a member of the faculty of the department of special education at an institution of higher education with a specialization in the area of autism; and one shall be a developmental pediatrician;

(4) three members appointed by the minority leader of the house of representatives. Of such members, one shall be a member of the Kansas house of representatives; one shall be a parent of a child with autism; and one shall be a clinical child psychologist with an expertise in the area of autism;

(5) four members appointed by the governor. Of such members, one shall be a parent of a child with autism; one shall be a speech language pathologist; one shall be an occupational therapist; and one shall be a member of a board of education of a school district;

(6) one member appointed by the parents of children with autism appointed pursuant to subsections (a)(2) through (5). Such member shall be a parent of a child with autism;

(7) one member appointed by the commissioner of insurance. Such member shall be a representative of health insurance companies doing business in the state of Kansas; and

(8) four members, which shall consist of one member appointed by the chief administrative officer of the Capper Foundation Easter seals located in Topeka, Kansas, the secretary of health and environment, the secretary of social and rehabilitation services and the commissioner of education, or such secretary's or commissioner's designee, who shall serve only as non-voting ex officio members of the task force.

(b) Except for appointees who are required to be legislators, when making initial appointments to the Kansas autism task force re-established by this section, the appointing authorities shall appoint the same persons appointed to the Kansas autism task force established pursuant to section 1 of chapter 182 of the 2007 Session Laws of Kansas. If any person designated to be appointed pursuant to this subsection declines to serve on the autism task force re-established by this section, the appointing authority shall appoint another person as otherwise provided by subsection (a). Appointees who are required to be legislators shall be appointed as provided by subsection (a).

(c) One of the members appointed by the governor shall be designated by the governor to serve as chairperson of the task force. Members of the task force shall be appointed within 30 days of the effective date of this act. The task force shall meet on call of the chairperson or on the request of 11 or more members of the task force. Eleven members of the task force shall constitute a quorum.

(d) Except as provided by subsection (a), any vacancy occurring in the membership of the task force shall be filled in the same manner as the original appointment.

(e) The staff of the office of the revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be requested by the task force and authorized by the legislative coordinating council. Upon request of the task force, the department of education, the department of health and environment and the department of social and rehabilitation services shall provide to the task force any information and supporting documentation relating thereto requested by the task force.

(f) (1) Except as provided by this subsection and subject to the approval of the legislative coordinating council, members of the task force attending meetings of such task force or subcommittee meetings thereof as authorized by such task force, shall be paid amounts as provided in subsection (e) of K.S.A. 75-3223, and amendments thereto, upon vouchers approved by the chairperson of the task force or the chairperson's designee. No member of the task force shall be paid an amount as provided in subsection (e) of K.S.A. 75-3223, and amendments thereto, if such member receives an amount from another governmental or private entity for the purpose for which such amount is payable under subsection (e) of K.S.A. 75-3223, and amendments thereto.

(2) The legislative coordinating council may pay amounts as provided in subsection (e) of K.S.A. 75-3223, and amendments thereto, to persons who were members of the task force established by section 1 of chapter 182 of the 2007 Session Laws of Kansas for attending

meetings during the period of time commencing on January 1, 2009 and ending on the effective date of this act.

(g) The task force shall study and conduct hearings on the issues relating to the needs of and services available for persons with autism including, but not limited to: (1) The realignment of state agencies that provide services for children with autism;

(2) the availability or accessibility of services for the screening, diagnosis and treatment of children with autism and the availability or accessibility of services for the parents or guardians of children with autism;

(3) the need to increase the number of qualified professionals and paraprofessionals who are able to provide evidence-based intervention and other services to children with autism and incentives which may be offered to meet that need;

(4) the benefits currently available for services provided to children with autism;

(5) study and discussion of an autism registry which would (A) provide accurate numbers of children with autism, (B) improve the understanding of the spectrum of autism disorders and (C) allow for more complete epidemiologic surveys of the autism disorder;

(6) the creation and design of a financial assistance program for children with autism;

(7) the establishment of a hotline that the parents or guardians of children with autism may use to locate services for children with autism;

(8) additional funding sources to support programs that provide evidence-based intervention or treatment of autism, including funding for the development of regional centers of excellence for the diagnosis and treatment of autism; and

(9) develop recommendations for the best practices for early evidence-based intervention for children with autism.

(h) The task force shall submit reports of the activities and recommendations of the task force to the legislative educational planning committee. A report shall be submitted on or before November 1, 2009. Such report shall include recommendations for legislative changes.

(i) As used in this section, "autism" means all disorders within the autism spectrum including, but not limited to, autism, Asperger's syndrome, pervasive development disorders and pervasive development disorder, not otherwise specified.

(j) The provisions of this section shall expire on December 31, 2009.";

And by renumbering sections accordingly;

On page 4, in line 41, preceding "are" by inserting "and K.S.A. 2008 Supp. 46-1208d";

In the title, in line 10, by striking all following "concerning"; in line 11, by striking "apists and psychologists" and inserting "state agencies; powers, duties and functions of agencies created by statutes; behavioral sciences regulatory board and autism task force"; in line 12, preceding the period by inserting "; also repealing K.S.A. 2008 Supp. 46-1208d", and **HB 2162** be passed as amended.

HB 2152 be amended by adoption of the committee amendments, be further amended by motion of Senator Lee, on page 1, following line 13, by inserting the following:

"New Section 1. "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.

New Sec. 2. (a) It shall be unlawful for any person to operate a golf cart: (1) On any interstate highway, federal highway or state highway; (2) on any public highway or street within the corporate limits of any city unless authorized by such city; or (3) on any street or highway with a posted speed limit greater than 30 miles per hour.

(b) The provisions of subsection (a) shall not prohibit a golf cart from crossing a federal or state highway or a street or highway with a posted speed limit in excess of 30 miles per hour.

(c) A golf cart operated on any public street or highway shall be equipped with efficient brakes, brake lights, reliable steering apparatus, rearview mirror, red reflectorized warning devices in both the front and rear, a slow moving vehicle emblem, as defined in K.S.A. 8-1717, and amendments thereto, and turn signal equipment.

(d) A golf cart shall be operated on any public street or highway only during the hours between sunrise and sunset.

(e) This section shall be part of and supplemental to the uniform act regulating traffic on highways.

Sec. 3. K.S.A. 2008 Supp. 8-126 is hereby amended to read as follows: 8-126. The following words and phrases when used in this act shall have the meanings respectively ascribed to them herein:

(a) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor vehicle" means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

(c) "Truck" means a motor vehicle which is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

 (\tilde{d}) "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined.

(e) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

(f) "Farm tractor" means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

(g) "Road tractor" means every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

 (\tilde{h}) "Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(i) "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(j) "Pole trailer" means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

(k) "Specially constructed vehicle" means any vehicle which shall not have been originally constructed under a distinctive name, make, model or type, or which, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

(l) "Foreign vehicle" means every motor vehicle, trailer or semitrailer which shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

(m) "Person" means every natural person, firm, partnership, association or corporation.

(n) "Owner" means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this act.

(o) "Nonresident" means every person who is not a resident of this state.

(p) "Manufacturer" means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

(q) "New vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles and who holds a dealer's contract therefor from a manufacturer or distributor and who has an established place of business in this state.

(r) "Used vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state

and who does not hold a dealer's contract for the sale of new motor vehicles, travel trailers, trailers or vehicles.

(s) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

(t) "Department" or "motor vehicle department" or "vehicle department" means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas.

(u) "Commission" or "state highway commission" means the director of vehicles of the department of revenue.

(v) "Division" means the division of vehicles of the department of revenue.

(w) "Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

(x) "Passenger vehicle" means every motor vehicle, as herein defined, which is designed primarily to carry 10 or fewer passengers, and which is not used as a truck.

(y) "Self-propelled farm implement" means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

(z) "Farm trailer" means every trailer as defined in subsection (h) of this section and every semitrailer as defined in subsection (i) of this section, designed and used primarily as a farm vehicle.

(aa) "Motorized bicycle" means every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has:

(1) A motor which produces not more than 3.5 brake horsepower;

(2) a cylinder capacity of not more than 130 cubic centimeters;

(3) an automatic transmission; and

(4) the capability of a maximum design speed of no more than 30 miles per hour.

(bb) "All-terrain vehicle" means any motorized nonhighway vehicle 48 inches or less in width, having a dry weight of 1,000 pounds or less, traveling on three or more low-pressure tires, having a seat designed to be straddled by the operator. As used in this subsection, low-pressure tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(cc) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

(1) A farm tractor;

(2) a self-propelled farm implement;

(3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;

(4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;

(5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.

(dd) "Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person that is incapable of a speed in excess of 15 miles per hour.

(ee) "Oil well servicing, oil well clean-out or oil well drilling machinery or equipment" means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is an oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

(ff) "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

(gg) "Electronic certificate of title" means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 2008 Supp. 8-135d, and amendments thereto.

(hh) "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck.

(ii) "Micro utility truck" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 144 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. "Micro utility truck" does not include a work-site utility vehicle.

(jj) "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.

Sec. 4. K.S.A. 2008 Supp. 8-128 is hereby amended to read as follows: 8-128. (a) The following need not be registered under this act, any:

(1) Implement of husbandry;

(2) all-terrain vehicle;

(3) micro utility truck;

(4) golf cart;

(4) (5) road roller or road machinery temporarily operated or moved upon the highways;

(5) (6) municipally owned fire truck;

 $\frac{(6)}{(7)}$ (7) privately owned fire truck subject to a mutual aid agreement with a municipality; $\frac{(7)}{(8)}$ (8) school bus owned and operated by a school district or a nonpublic school which has the name of the municipality, school district or nonpublic school plainly painted thereon;

(b) (9) farm trailer used in carrying not more than 6,000 pounds owned by a person engaged in farming, which trailer is used exclusively by the owner to transport agricultural products produced by such owner or commodities purchased by the owner for use on the farm owned or rented by the owner of such trailer and the weight of any such farm trailer, plus the cargo weight of 6,000 pounds or less, shall not be considered in determining the gross weight for which the truck or truck tractor propelling the same shall be registered; or

(9) (10) farm trailer used and designed for transporting hay or forage from a field to a storage area or from a storage area to a feedlot, which is only incidentally moved or operated upon the highways, except that this paragraph shall not apply to a farm semitrailer.

(b) Self-propelled cranes where the crane operator on a job site operates the controls of such crane from a permanent housing or module on the crane and the crane is not used for the transportation of property, except the property that is required for the operation of the crane itself and earth moving equipment which are equipped with pneumatic tires may be moved on the highways of this state from one job location to another, or to or from places of storage, delivery or repair, without complying with the provisions of the law relating to registration and display of license plates but shall comply with all the other requirements of the law relating to motor vehicles.

(c) Oil well servicing, oil well clean-out or oil well drilling machinery or equipment need not be registered under this act but shall comply with all the other requirements of the law relating to motor vehicles.

(d) A truck permanently mounted with a hydraulic concrete pump and placing boom may be moved on the highways of this state from one job location to another, or to or from places of storage delivery or repair, without being registered under this act, but shall comply with all the other requirements of the law relating to motor vehicles. The provisions of this subsection shall not apply to ready-mix concrete trucks.

Sec. 5. K.S.A. 2008 Supp. 8-1486 is hereby amended to read as follows: 8-1486. K.S.A. 8-1402a, 8-1414a, 8-1439c, 8-1458a, 8-1459a, 8-1475a, 8-1487, 8-1488, 8-1489 and 8-1490 and amendments thereto, and K.S.A. 2008 Supp. 8-1491, 8-1492, 8-1493 and, 8-1494 and section 1, and amendments thereto, shall be a part of, and supplemental to, the uniform act regulating traffic on highways.

Sec. 6. K.S.A. 2008 Supp. 8-2118 is hereby amended to read as follows: 8-2118. (a) A person charged with a traffic infraction shall, except as provided in subsection (b), appear at the place and time specified in the notice to appear. If the person enters an appearance, waives right to trial, pleads guilty or no contest, the fine shall be no greater than that specified in the uniform fine schedule in subsection (c) and court costs shall be taxed as provided by law.

(b) Prior to the time specified in the notice to appear, a person charged with a traffic infraction may enter a written appearance, waive right to trial, plead guilty or no contest and pay the fine for the violation as specified in the uniform fine schedule in subsection (c) and court costs provided by law. Payment may be made by mail or in person and may be by personal check. The traffic citation shall not have been complied with if a check is not honored for any reason, or if the fine and court costs are not paid in full. When a person charged with a traffic infraction makes payment without executing a written waiver of right to trial and plea of guilty or no contest.

(c) The following uniform fine schedule shall apply uniformly throughout the state but shall not limit the fine which may be imposed following a court appearance, except an appearance made for the purpose of pleading and payment as permitted by subsection (a). The description of offense contained in the following uniform fine schedule is for reference only and is not a legal definition.

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Description of Offense	Statute	Fine
Refusal to submit to a preliminary breath test	8-1012	\$90
Unsafe speed for prevailing conditions	8-1557	\$60
Exceeding maximum speed limit; or speeding	8-1558	1-10 mph over the limit, \$30
in zone posted by the state department of transportation; or speeding in locally posted zone	to 8-1560 8-1560a or	11-20 mph over the limit, \$30 plus \$6 per mph over 10 mph over the limit;
	8-1560b	21-30 mph over the limit, \$90 plus \$9 per mph over 20 mph over the limit;
		31 and more mph over the limit, \$180 plus \$15 per mph over 30 mph over the limit;
Disobeying traffic control device	8-1507	\$60
Violating traffic control signal	8-1508	\$60
Violating pedestrian control signal	8-1509	\$30
Violating flashing traffic signals	8-1510	\$60
Violating lane-control signal	8-1511	\$60
Unauthorized sign, signal, marking or device	8-1512	\$30
Driving on left side of roadway	8-1514	\$60
Failure to keep right to pass oncoming vehicle	8-1515	\$60
Improper passing; increasing speed when passed	8-1516	\$60
Improper passing on right	8-1517	\$60

Passing on left with insufficient clearance	8-1518	\$60
Driving on left side where curve, grade,	8-1519	\$60
intersection railroad crossing, or obstructed	0-1010	φ00
view		
Driving on left in no-passing zone	8-1520	\$60
Unlawful passing of stopped emergency	8-1520a	\$60 \$60
vehicle	0-1020a	φ00
Driving wrong direction on one-way road	8-1521	\$60
Improper driving on laned roadway	8-1522	\$60
Following too close	8-1523	\$60
Improper crossover on divided highway	8-1524	\$30
Failure to yield right-of-way at uncontrolled	8-1526	\$60
intersection	0 1020	φοσ
Failure to yield to approaching vehicle when	8-1527	\$60
turning left	0 1021	φοσ
Failure to yield at stop or yield sign	8-1528	\$60
Failure to yield from private road or driveway	8-1529	\$60
Failure to yield to emergency vehicle	8-1530	\$180
Failure to yield to pedestrian or vehicle	8-1531	\$90
working on roadway	0 1001	φ00
Failure to comply with restrictions in road	8-1531a	\$30
construction zone	0 10014	φ00
Disobeying pedestrian traffic control device	8-1532	\$30
Failure to yield to pedestrian in crosswalk;	8-1533	\$60
pedestrian suddenly entering roadway;	0 1000	400
passing vehicle stopped for pedestrian at		
crosswalk		
Improper pedestrian crossing	8-1534	\$30
Failure to exercise due care in regard to	8-1535	\$30
pedestrian		
Improper pedestrian movement in crosswalk	8-1536	\$30
Improper use of roadway by pedestrian	8-1537	\$30
Soliciting ride or business on roadway	8-1538	\$30
Driving through safety zone	8-1539	\$30
Failure to yield to pedestrian on sidewalk	8-1540	\$30
Failure of pedestrian to yield to emergency	8-1541	\$30
vehicle		
Failure to yield to blind pedestrian	8-1542	\$30
Pedestrian disobeying bridge or railroad signal	8-1544	\$30
Improper turn or approach	8-1545	\$60
Improper "U" turn	8-1546	\$60
Unsafe starting of stopped vehicle	8-1547	\$30
Unsafe turning or stopping, failure to give	8-1548	\$60
proper signal; using turn signal unlawfully		
Improper method of giving notice of intention	8-1549	\$30
to turn		
Improper hand signal	8-1550	\$30
Failure to stop or obey railroad crossing signal	8-1551	\$180
Failure to stop at railroad crossing stop sign	8-1552	\$120

Certain hazardous vehicles failure to stop at	8-1553	\$180
railroad crossing		
Improper moving of heavy equipment at railroad crossing	8-1554	\$60
Vehicle emerging from alley, private roadway, building or driveway	8-1555	\$60
Improper passing of school bus; improper use of school bus signals	8-1556	\$300
Improper passing of church or day-care bus; improper use of signals	8-1556a	\$180
Impeding normal traffic by slow speed	8-1561	\$30
Speeding on motor-driven cycle	8-1562	\$60
Speeding in certain vehicles or on posted bridge	8-1563	\$30
Improper stopping, standing or parking on roadway	8-1569	\$30
Parking, standing or stopping in prohibited area	8-1571	\$30
Improper parking	8-1572	\$30
Unattended vehicle	8-1573	\$30
Improper backing	8-1574	\$30
Driving on sidewalk	8-1575	\$30
Driving with view or driving mechanism obstructed	8-1576	\$30
Unsafe opening of vehicle door	8-1577	\$30
Riding in house trailer	8-1578	\$30
Improper driving in defiles, canyons, or on grades	8-1579	\$30
Coasting	8-1580	\$30
Following fire apparatus too closely	8-1581	\$60
Driving over fire hose	8-1582	\$30
Putting glass, etc., on highway	8-1583	\$90
Driving into intersection, crosswalk, or	8-1584	\$30
crossing without sufficient space on other side		
Improper operation of snowmobile on highway	8-1585	\$30
Parental responsibility of child riding bicycle	8-1586	\$30
Not riding on bicycle seat; too many persons on bicycle	8-1588	\$30
Clinging to other vehicle	8-1589	\$30
Improper riding of bicycle on roadway	8-1590	\$30
Carrying articles on bicycle; one hand on handlebars	8-1591	\$30
Improper bicycle lamps, brakes or reflectors	8-1592	\$30
Improper operation of motorcycle; seats; passengers, bundles	8-1594	\$30
Improper operation of motorcycle on laned roadway	8-1595	\$60
Motorcycle clinging to other vehicle	8-1596	\$30
Improper motorcycle handlebars or passenger	8-1597	\$60
equipment		

Motorcycle helmet and eye-protection requirements	8-1598	\$30
Unlawful riding on vehicle	8-1578a	\$60
Unlawful operation of all-terrain vehicle	8-15,100	\$60 \$60
	,	
Unlawful operation of low-speed vehicle	8-15,101	\$60 \$100
Littering Dischasting school sugging group	8-15,102	\$100 \$60
Disobeying school crossing guard	8-15,103	\$60 \$60
Unlawful operation of micro utility truck	8-15,106	\$60 \$60
Unlawful operation of golf cart	section 2	\$60 *60
Equipment offenses that are not misdemeanors	8-1701	\$60
Driving without lights when needed	8-1703	\$30
Defective headlamps	8-1705	\$30
Defective tail lamps	8-1706	\$30
Defective reflector	8-1707	\$30
Improper stop lamp or turn signal	8-1708	\$30
Improper lighting equipment on certain vehicles	8-1710	\$30
Improper lamp color on certain vehicles	8-1711	\$30
Improper mounting of reflectors and lamps on certain vehicles	8-1712	\$30
Improper visibility of reflectors and lamps on certain vehicles	8-1713	\$30
No lamp or flag on projecting load	8-1715	\$60
Improper lamps on parked vehicle	8-1716	\$30
Improper lights, lamps, reflectors and	8-1717	\$30
emblems on farm tractors or slow-moving vehicles		+
Improper lamps and equipment on	8-1718	\$30
implements of husbandry, road machinery or animal-drawn vehicles		
Unlawful use of spot, fog, or auxiliary lamp	8-1719	\$30
Improper lamps or lights on emergency vehicle	8-1720	\$30
Improper stop or turn signal	8-1721	\$30
Improper vehicular hazard warning lamp	8-1722	\$30
Unauthorized additional lighting equipment	8-1723	\$30
Improper multiple-beam lights	8-1724	\$30
Failure to dim headlights	8-1725	\$60
Improper single-beam headlights	8-1726	\$30
Improper speed with alternate lighting	8-1727	\$30
Improper number of driving lamps	8-1728	\$30
Unauthorized lights and signals	8-1729	\$30
Improper school bus lighting equipment and	8-1730	\$30
warning devices		T = 0

Unauthorized lights and devices on church or	8-1730a	\$30
day-care bus Improper lights on highway construction or	8-1731	\$30
maintenance vehicles	0.1504	100
Defective brakes	8-1734	\$30
Defective or improper use of horn or warning	8-1738	\$30
device	0 1720	¢20
Defective muffler	8-1739	\$30 \$20
Defective mirror	8-1740 8-1741	\$30 \$30
Defective wipers; obstructed windshield or windows		
Improper tires	8-1742	\$30
Improper flares or warning devices	8-1744	\$30
Improper use of vehicular hazard warning lamps and devices	8-1745	\$30
Improper air-conditioning equipment	8-1747	\$30
Improper safety belt or shoulder harness	8-1749	\$30
Improper wide-based single tires	8-1742b	\$60
Improper compression release engine braking system	8-1761	\$60
Defective motorcycle headlamp	8-1801	\$30
Defective motorcycle tail lamp	8-1802	\$30
Defective motorcycle reflector	8-1803	\$30
Defective motorcycle stop lamps and turn signals	8-1804	\$30
Defective multiple-beam lighting	8-1805	\$30
Improper road-lighting equipment on motor- driven cycles	8-1806	\$30
Defective motorcycle or motor-driven cycle brakes	8-1807	\$30
Improper performance ability of brakes	8-1808	\$30
Operating motorcycle with disapproved braking system	8-1809	\$30
Defective horn, muffler, mirrors or tires	8-1810	\$30
Unlawful statehouse parking	75-4510a	\$15
Exceeding gross weight of vehicle or	8-1909	Pounds Overweight
combination		up to 1000 \$25
		1001 to 2000 3¢ per pound
		2001 to 5000 5¢ per pound
		5001 to 7500 7¢ per pound
		7501 and over 10¢ per pound
Exceeding gross weight on any axle or tandem,	8-1908	Pounds Overweight
triple or quad axles		up to 1000 \$25
		1001 to 2000 3¢ per pound
		2001 to 5000 5¢ per pound
		5001 to 7500 7¢ per pound
		7501 and over 10¢ per pound
Failure to obtain proper registration, clearance	66-1324	\$272
or to have current certification	00 1 100	\$122
Insufficient liability insurance for motor	66-1,128	\$122
carriers	or 66-131	4

524

Failure to obtain interstate motor fuel tax	79-34,122	\$122
authorization		
No authority as private or common carrier	66-1,111	\$122
Violation of motor carrier safety rules and	66-1,129	\$100
regulations, except for violations specified in		

subsection (b)(2) of K.S.A. 66-1,130, and

amendments thereto

(d) Traffic offenses classified as traffic infractions by this section shall be classified as ordinance traffic infractions by those cities adopting ordinances prohibiting the same offenses. A schedule of fines for all ordinance traffic infractions shall be established by the municipal judge in the manner prescribed by K.S.A. 12-4305, and amendments thereto. Such fines may vary from those contained in the uniform fine schedule contained in subsection (c).

(e) Fines listed in the uniform fine schedule contained in subsection (c) shall be doubled if a person is convicted of a traffic infraction, which is defined as a moving violation in accordance with rules and regulations adopted pursuant to K.S.A. 8-249, and amendments thereto, committed within any road construction zone as defined in K.S.A. 8-1458a, and amendments thereto.

(f) For a second violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after a prior conviction of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined $1\frac{1}{2}$ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a third violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years, after two prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined two times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after three prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, or a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after three prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined $2\frac{1}{2}$ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c).

(g) Fines listed in the uniform fine schedule contained in subsection (c) relating to exceeding the maximum speed limit, shall be doubled if a person is convicted of exceeding the maximum speed limit in a school zone authorized under subsection (a)(4) of K.S.A. 8-1560, and amendments thereto.";

And renumbering sections accordingly;

On page 2, in line 18, by striking "8-1103 is" and inserting "8-126, 8-128, 8-1486, 8-1103 and 8-2118 are";

In the title, in line 10, preceding "concerning" by inserting "regulating the use of golf carts;"; in line 11, by striking "8-1103" and inserting "8-126, 8-128, 8-1486, 8-1103 and 8-2118"; also in line 11, by striking "section" and inserting "sections", and **HB 2152** be passed as further amended.

HB 2221 be amended by adoption of the committee amendments.

A motion by Senator Bruce to amend **HB 2221** failed and the following amendment was rejected: on page 8, by striking all in lines 35 through 43;

By striking all on pages 9 through 13;

On page 14, by striking all in lines 1 through 22;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 14, by striking all after "smoking"; in line 15, by striking all before the semicolon; in line 16, by striking "K.S.A. 2008 Supp. 79-3301 and 79-3321 and"

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

On roll call, the vote was: Yeas 12, Nays 24, Present and Passing 3, Absent or Not Voting 1.

Yeas: Abrams, Brownlee, Bruce, Donovan, Huelskamp, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Taddiken, Wagle.

Nays: Apple, Barnett, Brungardt, Colyer, Emler, Faust-Goudeau, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Vratil, Wysong.

Present and Passing: Francisco, Haley, Steineger.

Absent or Not Voting: Umbarger.

The motion failed and the amendment was rejected.

Discussion was suspended on **HB 2221**, and the bill was passed over and will retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ³/₃ constitutional majority, and S Sub 184, SB 326; HB 2001, HB 2059, S Sub for HB 2072, S Sub for HB 2097, HB 2111, S Sub for HB 2115, HB 2152, HB 2155, HB 2162, HB 2164, HB 2165, HB 2250, S Sub for HB 2260, HB 2308, HB 2324, HB 2343, HB 2359 were advanced to Final Action and roll call.

Sub SB 184, An act enacting the Kansas surface owner notice act; relating to oil and gas operations; state corporation commission; amending K.S.A. 55-155, 55-173 and K.S.A. 2008 Supp. 55-151 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: This act is designed to foster mutually beneficial communication between surface owners and the operators of oil and gas leases regarding their joint use of the surface estate. This act simply provides for notice of certain pending activities by an operator in the ordinary course of business to be given to one surface owner, being the surface owner who is the recipient of the property tax bill on the records of the county treasurer. This act does not expand or diminish existing contractual rights and obligations or the constitutionally-protected property rights of the surface owner, mineral owners or the owner of any interests in the mineral or surface estate. I support this bill in this form. —TERRY BRUCE

Senators Abrams and Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Bruce on **Sub SB 184.**

SB 326, An act concerning crime victims; relating to the crime victims compensation fund and the crime victims assistance fund; amending K.S.A. 2008 Supp. 75-752 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2001, An act concerning school districts; relating to school finance; amending K.S.A. 2008 Supp. 72-6407 and repealing the existing section.

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

MARCH 25, 2009

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2059, An act concerning proceeds derived from violation of the uniform controlled substances act or any substantially similar offense from another jurisdiction; amending K.S.A. 65-4142 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

S Sub for HB 2072, An act concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; employment after retirement; disability benefits; membership election, requirements and contributions; amending K.S.A. 74-4937 and K.S.A. 2008 Supp. 74-4914 and 74-4960a and repealing the existing sections, by Committee on Ways and Means.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp.

The substitute bill passed.

S Sub for HB 2097, An act concerning crimes, punishment and criminal procedure; relating to sentencing for certain felony drug crimes; community corrections; amending K.S.A. 21-4611 and K.S.A. 2008 Supp. 75-5291 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The substitute bill passed.

HB 2111, An act concerning the Kansas commission on judicial performance; relating to sunset provisions; amending K.S.A. 20-3201 and K.S.A. 2008 Supp. 20-367, 28-172a, 59-104, 60-1621, 60-2001, 61-2704 and 61-4001 and repealing the existing sections.

On roll call, the vote was: Yeas 24, Nays 16, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Kelly, Kultala, Lee, Marshall, McGinn, Morris, Owens, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Barnett, Brownlee, Colyer, Holland, Huelskamp, Kelsey, Lynn, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Taddiken, Wagle.

The bill passed.

S Sub for HB 2115, An act concerning utilities; relating to the underground utility damage prevention act; concerning interference with an emergency call; amending K.S.A. 66-1802, 66-1804, 66-1805 and 66-1806 and repealing the existing sections; also repealing K.S.A. 21-4211, 66-1802, as amended by section 5 of chapter 122 of the 2008 Session Laws

of Kansas, 66-1804, as amended by section 6 of chapter 122 of the 2008 Session Laws of Kansas, 66-1805, as amended by section 7 of chapter 122 of the 2008 Session Laws of Kansas, 66-1806, as amended by section 8 of chapter 122 of the 2008 Session Laws of Kansas, section 9 of chapter 122 of the 2008 Session Laws of Kansas and section 10 of chapter 122 of the 2008 Session Laws of Kansas.

On roll call, the vote was: Yeas 35, Nays 3, Present and Passing 2, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kelsey, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Ostmeyer, Pyle.

Present and Passing: Francisco, Kultala.

The substitute bill passed.

HB 2152. An act relating to motor vehicles; regulating the use of golf carts; concerning towed vehicles; amending K.S.A. 2008 Supp. 8-126, 8-128, 8-1486, 8-1103 and 8-2118 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

 $HB\ 2155,$ An act concerning land banks; relating to the establishment of land banks by cities.

On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Brownlee, Huelskamp, Masterson, Pilcher-Cook, Pyle.

The bill passed, as amended.

HB 2162, An act concerning state agencies; powers, duties and functions of agencies created by statutes; behavioral sciences regulatory board and autism task force; licensure requirements of behavioral sciences regulatory board; amending K.S.A. 65-6404 and 74-5310 and K.S.A. 2008 Supp. 65-6313 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 46-1208d.

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

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Navs: Abrams, Pyle.

The bill passed, as amended.

HB 2164, An act concerning courts; relating to the judicial council; the commission on judicial performance; funding the Kansas criminal code recodification commission; the court of appeals; judges and justices; retirement age; amending K.S.A. 20-2207, 20-2208, 20-2608 and 20-3207 and K.S.A. 2008 Supp. 20-3002, 20-3202 and 20-3205 and repealing the existing sections.

On roll call, the vote was: Yeas 16, Nays 24, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Bruce, Brungardt, Emler, Faust-Goudeau, Marshall, Masterson, Morris, Owens, Petersen, Reitz, Schmidt V, Steineger, Teichman, Umbarger, Wysong.

Nays: Abrams, Apple, Brownlee, Colyer, Donovan, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, McGinn, Ostmeyer, Pilcher-Cook, Pyle, Schmidt D, Schodorf, Taddiken, Vratil, Wagle.

A constitutional majority having failed to vote in favor of the bill, **HB 2164** did not pass. **HB 2165**, An act concerning crimes and punishment; relating to unlawfully hosting

minors; amending K.S.A. 21-3610c and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2250, An act concerning the rules of evidence; relating to admissibility of prior acts or offenses of sexual misconduct; amending K.S.A. 60-455 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

S Sub for HB 2260, An act concerning the Kansas home inspectors professional competence and financial responsibility act; amending K.S.A. 2008 Supp. 58-4501, 58-4502, 58-4503, 58-4504, 58-4505, 58-4506, 58-4509, 58-4510, 58-4511 and 58-4512 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 58-4513.

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

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Holland, Huelskamp, Lynn, Ostmeyer, Pilcher-Cook, Pyle.

The substitute bill passed.

HB 2308, An act concerning the personal and family protection act; amending K.S.A. 2008 Supp. 75-7c03, 75-7c04 and 75-7c05 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

HB 2324, An act concerning sales taxation; relating to exemptions; Kansas enterprise zone act; requirements for certain retail businesses; sales tax for community improvement districts; community improvement district act; amending K.S.A. 2008 Supp. 74-50,115 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Pilcher-Cook, Pyle.

The bill passed, as amended.

HB 2343, An act concerning the licensure of professional nurses and practical nurses; amending K.S.A. 65-1115 and 65-1116 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2359, An act concerning the state board of cosmetology; amending K.S.A. 65-1904 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 331. An act concerning state agencies; attaching the athletic commission of the state of Kansas to the Kansas racing and gaming commission; amending K.S.A. 2008 Supp. 74-50,183 and repealing the existing section, by Committee on Ways and Means.

CHANGE OF REFERENCE

The Vice President withdrew **HB 2221** from the calendar under the heading of General Orders, and referred the bill to the Committee on **Federal and State Affairs**.

CONSIDERATION OF MOTIONS AND SENATE RESOLUTIONS

On motion of Senator D. Schmidt **HCR 5018**, a concurrent resolution relating to the adjournment of the Senate and House of Representatives for periods during the 2009 regular session of the legislature, was emergencied to final action and adopted by voice vote.

In accordance with **HCR 5018**, Senator D. Schmidt moved the Senate adjourn until 10:00 a.m., Monday, March 30, 2009.

Journal of the Senate

FIFTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS Monday, March 30, 2009—10:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-eight senators present. Senators Brungardt and Emler were excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

The fiftieth anniversary of the signing Of the Declaration of Independence Was marked with an event By an act of Providence.

John Adams and Thomas Jefferson, Former adversaries, Died on that very day In a friendship legendary.

Members of opposing parties, In two bitter campaigns, After serving as president, Their animosity drained.

Now they serve as models For those of us today, Who hang on to bitter grudges With reconciling far away.

It really is hard to understand Why someone favors a certain bill, When it's so very clear to you It's the one that should be killed.

I'm sure that Adams felt that way About some stands that Jefferson took. And Jefferson no doubt felt that Adams Favored issues that deserved the hook.

Another signer of the Declaration Named Dr. Benjamin Rush, Helped to reconcile the two And their animosity crushed.

They didn't change their views at all, But decided to work together, And help produced the Declaration, Though never "birds of a feather." They carried on a correspondence In their later years, Which was cordial and complimentary, An example to their peers.

Lord, help us do unto each other As we would have them do to us. Treating them with courtesy Even when we fuss.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to Committees as indicated: Assessment and Taxation: **HB 2353**. Committee of the Whole: **HCR 5015**. Federal and State Affairs: **SB 331**. Natural Resources: **HB 2283**. Public Health and Welfare: **HB 2275**, **HB 2323**. Ways and Means: **HB 2360**, **HB 2369**, **HB 2373**, **HB 2383**.

MESSAGE FROM THE GOVERNOR

SB 5, SB 40, SB 50, SB 86, SB 115, SB 122, SB 123, SB 137, SB 148, SB 156; H Sub SB 238; SB 240 approved on March 27, 2009.

March 5, 2009

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as Governor of the State of Kansas, pursuant to law.

KATHLEEN SEBELIUS Governor

Brigadier General, Kansas National Guard, Alexander Duckworth, pursuant to the authority vested in me by KSA 48-203, effective upon the date of confirmation by the Senate.

Member, Kansas Public Employees' Retirement System Board of Trustees, Rachel Reiber, pursuant to the authority vested in me by KSA 74-4905, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, Kansas Public Employees' Retirement System Board of Trustees, Michael Braude, pursuant to the authority vested in me by KSA 74-4905, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, Kansas Human Rights Commission, Jeffrey E. Lewis, pursuant to the authority vested in me by KSA 44-1003, effective upon the date of confirmation by the Senate, to serve a term of four years.

MESSAGE FROM THE HOUSE

Announcing passage of SCR 1611. Announcing passage of SB 1.

Passage of SB 68, as amended, SB 160, as amended.

Also, passage of SB 91, as amended by House Substitute for SB 91.

The \hat{H} ouse accedes to the request of the Senate for a conference on SB 19 and has appointed Representatives Neufeld, Bowers and Quigley as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **Substitute for SB 28** and has appointed Representatives Colloton, Patton and McCray-Miller as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on SB 30 and has appointed Representatives Yoder, Watkins and Feuerborn as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on SB 33 and has appointed Representatives Landwehr, Crum and Flaharty as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 41** and has appointed Representatives Aurand, Horst and Winn as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on SB 44 and has appointed Representatives Kinzer, Whitham and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on SB 45 and has appointed Representatives Kinzer, Whitham and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on SB 87 and has appointed Representatives Kinzer, Whitham and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on SB 97 and has appointed Representatives Carlson, King and Menghini as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 98** and has appointed Representatives Carlson, King and Menghini as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on SB~134 and has appointed Representatives Kinzer, Whitham and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on $SB\ 154$ and has appointed Representatives Kinzer, Whitham and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 168** and has appointed Representatives Watkins, Kelley and Burroughs as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on $SB\ 237$ and has appointed Representatives Kinzer, Whitham and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 253** and has appointed Representatives Powell, Fund and Svaty as conferences on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 275** and has appointed Representatives A. Brown, Proehl and Grant as conferees on the part of the House.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Wysong the Senate nonconcurred in the House amendments to **SB 35** and requested a conference committee be appointed.

The President appointed Senators Wysong, Lynn and Holland as a conference committee on the part of the Senate.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **SB** 68 and requested a conference committee be appointed.

The President appointed Senators Owens, D. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Wysong the Senate nonconcurred in the House amendments to **SB 160** and requested a conference committee be appointed.

The President appointed Senators Wysong, Lynn and Holland as a conference committee on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1864-

A RESOLUTION congratulating and commending

the Washburn Rural High School girls basketball team.

WHEREAS, The Washburn Rural High School girls basketball team won the Class 6A State Basketball Championship; and

WHEREAS, The Washburn Rural Junior Blues won the title by defeating Olathe South by a score of 57-47; and

WHEREAS, The Junior Blues finished the 2008-2009 season with a record of 24-1 en route to winning the 6A State Championship, as well as the Lady Thunderbird Classic Tournament and the Class 6A Sub State Tournament; and

WHEREAS, The team members are Seniors Allison Babcock, Paige Ladenburger, La-Sharra Riley; Juniors Alexa Bordewick, Lindsay Gress, Maggie Holmberg, Kelsey Lewis and Kelly Wayner; and Sophomores Shannon Anderson, Jessica Aschenbrenner, Katlyn Aschenbrenner, Kate Cooley, Rachel Ladenburger, Katie Scott, Madison Singer and Taylor Zordel; and

WHEREAS, The Junior Blues' dedication to teamwork resulted in successful years for many of the Junior Blues. These honors include LaSharra Riley being selected First Team All-State, First Team All-Class 6A, First team All-League, First Team All-City and League and City Player of the Year; Alexa Bordewick being selected Second Team All-Class 6A, First Team All-League and First Team All-City; Paige Ladenburger being selected as an All-State and All-City Honorable Mention; Allison Babcock being selected to the All-League Defensive Team and as an All-City Honorable Mention; Taylor Zordel being selected Second Team All-City and an All-League Honorable Mention; and Maggie Holmberg being selected Third Team All-City; and

WHEREAS, The Junior Blues are led by Coach Bill Annan and Assistant Coach Kevin Bordewick, whose leadership helped foster the team-first mentality that carried the team to the championship; and

WHEREAS, This championship for the Junior Blues serves as an example of the great things that can be accomplished through dedication and teamwork: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Washburn Rural High School girls basketball team for winning the Class 6A State Basketball Championship and that we wish them continued future success; and

Be it further resolved: That the Secretary of the Senate be directed to provide 18 enrolled copies to Senator Vicki Schmidt.

On emergency motion of Senator V. Schmidt **SR 1864** was adopted unanimously.

Introduced and welcomed were team members, Allison Babcock, Alexa Bordewick, Taylor Zordel, Rachel Ladenburger, Kelly Wayner, LaSharra Riley, Jessica Aschenbrenner, Kelsey Lewis, Katie Scott, Maggie Holmberg, Katlyn Aschenbrenner, Paige Ladenburger; Coach Bill Annan, recently named Coach of the Year; Coach Kevin Bordewick; Penny Lane, Athletic Director.

Senators D. Schmidt, Faust-Goudeau, Haley and Ostmeyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1865-

A RESOLUTION proclaiming April 17 and 18 as "Kansas Exoduster Colonies Days".

WHEREAS, Following the Civil War, many former slaves **and freedmen** migrated to Kansas because it had a progressive and more tolerant reputation than most other states at that time. These African American migrants were called "Exodusters," in reference to the biblical story of the Hebrew exodus from Egypt. During the 1870's and 1880's, nearly 40,000 Exodusters came to Kansas; and

WHEREAS, Exoduster families made significant contributions to the state of Kansas and the surrounding area and were located in the colonies of Bloomington, Burlington, Chautauqua, David City, Dunlap, Groves Center, Hoggstown, Little Caney, Mississippi, Morton, Mud Town, Nicodemus, Quindaro, Rattlebone Hollow, Redmonsville, Rice, Richie's Addition, Scuffletown, Sedan, Singleton, Summit, Tennessee Town, The Bottoms, Votaw, Wabunsee and Wayside; and WHEREAS, The descendants of the Exoduster families have made their presence and influence felt in population growth, education, city development, science, religion, the professions and the arts; and

WHEREAS, April 17 and 18, 2009, there will be a "Reconnection II" event for Exoduster descendants from across the fifty states to return and reconnect: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we proclaim April 17 and 18, 2009, as "Kansas Exoduster Colonies' Days"; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Nat Fitz, President, Votaw Colony Museum, Inc., 818 Gertrude Avenue, Richmond, California 94801.

On emergency motion of Senator D. Schmidt SR 1865 was adopted unanimously.

Senators Hensley, Kelly and V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1866-

A RESOLUTION congratulating and commending the Highland Park High School boys basketball team.

WHEREAS, The Highland Park High School boys basketball team won the 2009 Kansas State High School Activities Association Class 5A State Basketball Championship on Michael Copeland's lay up at the buzzer for a thrilling 54-52 victory over Bishop Miege High School in the state championship game at Topeka, on March 14, 2009; and

WHEREAS, The Highland Park High School Scots basketball team finished the season with a record of 24 wins and 1 loss and after their 2007 undefeated season have won three consecutive state championships with a three-year record of 73 wins and 2 losses; and

WHEREAS, For the 2008-2009 season, the team set and accomplished the following team goals: Oklahoma City Chesapeake Challenge High School Tournament Champions; Topeka Invitational Tournament Champions; Centennial League Champions; 5A Sub-State Tournament Champions; and 5A State Champions; and

WHEREAS, Rico Richardson was named to the 2009 Class 5A All-State first team by the *Topeka Capital-Journal* and *Wichita Eagle*, Centennial League and All-City first teams, Centennial League and All-City Co-Player of the Year and Oklahoma City Tournament MVP; Canon Fields was named to the 2009 Class 5A first team by the *Topeka Capital-Journal* and Class 5A second team by the *Wichita Eagle*, Centennial League and All-City first teams and Centennial League all-defensive team; Michael Copeland was named 2009 Class 5A honorable mention by the *Topeka Capital-Journal* and *Wichita Eagle* and Centennial League honorable mention; and DaVonte Grant was named to the Centennial League and All-City third teams; and

WHEREAS, In eight seasons at Highland Park, Coach Ken Darting has led the Scots to seven state tournament appearances and six state championship games, placing runner-up two times and winning the state championship four times, he was named 2009 Centennial League Coach of the Year and he has been named All-State, Centennial League and All-City Coach of the Year numerous times; and

WHEREAS, The members of this championship team were VR Barber, Jeramiah Brooks, Michael Copeland, AJ Downing, DeMarco Ewing, Canon Fields, DaVonte Grant, Spencer Moore, Desmond Ogles, Rico Richardson, Shaka Thomas, Elijah Tyree and Joseph Wakefield; the head coach was Ken Darting; assistant coaches were Jim Bauersfeld, Michael Calhoun, Michael Jackson and Reid Hein; and team managers were LeOra Birch, Chris Cushinberry, Chanaya Kershner, Isiah Smith and Trense Wheeler; and

WHEREAS, The team received statewide recognition for their athletic abilities and fine sportsmanship. The success of this team was due to their unselfish teamwork, competitive spirit and smothering defense. The team also had the enthusiastic support of the school's administrators, teachers and staff, fellow students, parents and the entire "It's Great to be a Scot" Highland Park community: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Highland Park High School boys basketball team and Coach Ken Darting be congratulated and commended for winning

the 2009 Kansas High School Activities Association Class 5A State Basketball Championship, giving them their third consecutive state championship and for a 24-1 season; and

Be it further resolved: That the Secretary of the Senate provide 25 enrolled copies of this resolution to Dale Cushinberry, Principal, Highland Park High School, 2424 SE California Avenue, Topeka, KS 66605-1797.

On emergency motion of Senator V. Schmidt SR 1866 was adopted unanimously.

Introduced and welcomed were A.J. Downing, Shaka Thomas, Spencer Moore, Canon Fields, Joseph Wakefield, DeMarco Ewing, V.R. Barber, Jeramiah Brooks, Elijah Tyree, DaVonte Grant, Rico Richardson, Desmond Ogles, Michael Copeland, team members; Ken Darting, Head Coach; Jim Bauersfeld, Mike Calhoun, Michael Jackson and Reid Hein, Assistant Coaches; LeOra Birch, Chris Cushinberry, Chanaya Kershner, Isiah Smith and Trense Wheeler, Team Managers; Dale Cushinberry, Principal and Patrick Wood, Board Member.

Senator Ostmeyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1867-

A RESOLUTION congratulating and commending the Colby High School wrestling team.

WHEREAS, The Colby High School wrestling team won the 2009 4A State Wrestling Championship; and

WHEREAS, This championship was the fifth for the Colby wrestlers, having won prior championships in 1936, 1951, 1958 and 2001; and

WHEREAS, The Colby wrestlers had been ranked first by the Kansas Wrestling Coaches Association the entire season and verified that ranking by defeating two-time defending state champion Clay Center High School by 8.5 points; and

WHEREAS, The team members are Breck Arnberger, Tanner Kriss, Treat Bugbee, Konnor Kriss, Nathan Reed, Adam Weber, Dryden Baumfalk, Dalton Snyder, Heath Stephens, Garrett Zweygardt and Andrew Flanagin; and

WHEREAS, The Colby Eagles were led by Breck Arnberger in the 171 pound weight class and Tanner Kriss in the 215 pound weight class, both of whom capped undefeated seasons with dominating performances in claiming individual state titles; and

WHEREAS, The entire team turned in solid performances with Treat Bugbee finishing second in the 189 pound weight class, Konnor Kriss placing third in the 103 pound weight class, Nathan Reed claiming fifth in the 112 pound weight class and Dryden Baumfalk, Dalton Snyder, Heath Stephens, Garrett Zweygardt and Andrew Flanagin all scoring valuable points for the Eagles; and

WHEREAS, Adam Weber turned in an impressive performance, capturing fifth place in the 285 pound weight class while only weighing in at 190 pounds, the minimum allowed weight, which he only met after drinking copious amounts of water; and

WHEREAS, The Eagles were led by Coach Matt Simms and assistant coaches Rick Williams, Ed Schmitt and Mike Kersenbrock; and

WHEREAS, The individual and team performances of the Colby Eagles demonstrated their true championship spirit: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Colby High School wrestling team and that we wish them all continued success; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Ralph Ostmeyer.

On emergency motion of Senator Östmeyer SR 1867 was adopted unanimously.

REPORT ON ENGROSSED BILLS

SB 64, SB 72, SB 85, SB 163, SB 178 reported correctly reengrossed March 26, 2009.

REPORT ON ENROLLED BILLS

SB 8, SB 16, SB 34, SB 38, SB 61, SB 70, SB 78, SB 108, SB 120, SB 132, SB 135, SB 175, SB 203, SB 228, SB 290 reported correctly enrolled, properly signed and presented to the Governor on March 30, 2009.

SR 1861, SR 1862, SR 1863 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 30, 2009.

On motion of Senator D. Schmidt, the Senate recessed until 3:00 p.m.

AFTERNOON SESSION

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

CHANGE OF REFERENCE

The President withdrew **HB 2221** from the Committee on **Federal and State Affairs**, and referred the bill to the calendar under the heading of General Orders.

MESSAGE FROM THE HOUSE

Announcing passage of HB 2180, HB 2331; Substitute for HB 2340; HB 2356; HCR 5012, HCR 5013.

Passage of $SB\ 29,$ as amended, $SB\ 53,$ as amended, $SB\ 204,$ as amended, $SB\ 212,$ as amended, $SB\ 225,$ as amended.

Also, passage of SB 254, as amended by House Substitute for SB 254.

The \hat{H} ouse accedes to the request of the Senate for a conference on SB 158 and has appointed Representatives Kinzer, Whitham and Pauls as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2180, HB 2331; Substitute for HB 2340; HB 2356; HCR 5012, HCR 5013 were thereupon introduced and read by title.

ORIGINAL MOTION

Pursuant to Senate Rule 75, President Morris determined **SB 204**, as amended by the House, to be materially changed.

President Morris referred the bill to the Committee on Federal and State Affairs.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Schodorf moved the Senate concur in house amendments to SB 9.

SB 9, An act concerning state educational institutions; relating to construction improvement projects.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Brungardt, Emler.

The Senate concurred.

Senator Teichman moved the Senate concur in house amendments to SB 39.

SB 39, An act concerning certain municipalities; relating to the investment of public moneys; amending K.S.A. 2008 Supp. 12-1677b and repealing the existing sections.

On roll call, the vote was: Yeas 36, Nays 2, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Lynn, Wysong.

Absent or Not Voting: Brungardt, Emler.

The Senate concurred.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote No on **SB 39**. This bill does not provide a mechanism to ensure all local financial institutions have priority in the investment of Johnson County taxpayer dollars.—JULIA LYNN

Senator Umbarger moved the Senate concur in house amendments to SB 60.

SB 60, An act concerning counties; relating to the sale of real property; relating to redevelopment districts within a federal enclave; amending K.S.A. 19-211 and repealing the existing section.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2. Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Brungardt, Emler.

The Senate concurred.

Senator Reitz moved the Senate concur in house amendments to SB 253.

SB 253, An act concerning zoning; relating to counties declared urban areas; amending K.S.A. 12-757 and 19-2960 and repealing the existing sections.

On roll call, the vote was: Yeas 31, Nays 7, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Faust-Goudeau, Haley, Holland, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, Morris, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Francisco, Hensley, Huelskamp, Kelly, McGinn, Ostmeyer, Pyle.

Absent or Not Voting: Brungardt, Emler.

The Senate concurred.

On motion of Senator McGinn the Senate nonconcurred in the House amendments to **H Sub for SB 51** and requested a conference committee be appointed.

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

On motion of Senator Reitz the Senate nonconcurred in the House amendments to **H Sub for SB 254** and requested a conference committee be appointed.

The President appointed Senators Brungardt, Reitz and Faust-Goudeau as a conference committee on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator McGinn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1868-

A RESOLUTION designating March 20, 2009, as "Kansas Cerebral Palsy Awareness Day".

WHEREAS, Cerebral palsy is any number of neurological disorders that appear in infancy or early childhood and permanently affect body movement and the muscle coordination necessary to maintain balance and posture; and

WHEREAS, Cerebral palsy is caused by damage to one or more specific areas of the brain, usually occurring during fetal development, before, during or shortly after birth or during infancy; and

WHEREAS, The majority of the children that have cerebral palsy are born with it, although it may not be detected until months or years later; and

WHEREAS, More than 75% of individuals with cerebral palsy also have one or more additional developmental disabilities including epilepsy, intellectual disability, autism and visual impairments or blindness; and

WHEREAS, The Centers for Disease Control and Prevention recently released information indicating an increase in the prevalence of cerebral palsy and that the rate is now about 1 in 278 children; and

MARCH 30, 2009

WHEREAS, More than 800,000 Americans are affected by cerebral palsy; and

WHEREAS, While there is no current cure for cerebral palsy, some treatment will often improve a child's capabilities and scientists and researchers are hopeful that breakthroughs will be forthcoming; and

WHEREAS, Researchers across the United States are conducting important research projects involving cerebral palsy; and

WHEREAS, The Senate of the State of Kansas is an institution that can raise awareness in the general public and the medical community of cerebral palsy: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we designate March 20, 2009, as "Kansas Cerebral Palsy Awareness Day" and that we recognize that all Kansans, as well as the rest of the country, should become more informed and aware of cerebral palsy; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Reaching for the Stars: A Foundation of Hope for Children with Cerebral Palsy.

On emergency motion of Senator McGinn SR 1868 was adopted unanimously.

On motion of Senator D. Schmidt the Senate adjourned until 9:00 a.m., Tuesday, March 31, 2009.

Journal of the Senate

FIFTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS Tuesday, March 31, 2009—9:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

In the book of Proverbs we read, "The integrity of the upright guides them, but the unfaithful are destroyed by their duplicity." Prov. 11:3

One word sums up the blameless person; One word describes the morally sound; One word embodies the scrupulously honest; It's the one where integrity is found.

Job was a man of integrity. He was like the man Paul described: The man in his letter to Titus: The one who could never be bribed.

One word sums up what one should be: Integrity is the word. Integrity describes the faultless man, Whose testimony is heard.

Thank You for people of integrity, Lord, May their numbers continue to grow. People we know we can always trust, People who love You so.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were referred to Committees as indicated: Federal and State Affairs: **HB 2180**. Financial Institutions & Insurance: **HB 2331**. Judiciary: **Sub HB 2340**. Natural Resources: **HCR 5012, HCR 5013**. Public Health and Welfare: **HB 2356**.

REFERRAL OF APPOINTMENTS

The following appointments made by the Governor and submitted to the senate for confirmation, were referred to Committees as indicated: Brigadier General, Kansas National Guard:

Alexander Duckworth, effective upon the date of confirmation by the Senate. (Federal and State Affairs)

Kansas Public Employees' Retirement System Board of Trustees, Member: Rachel Reiber, effective upon the date of confirmation by the Senate to serve a term of four years.

(Ways and Means)

Kansas Public Employees' Retirement System Board of Trustees, Member: Michael Braude, effective upon the date of confirmation by the Senate to serve a term of four years.

(Ways and Means)

Kansas Human Rights Commission, Member: Jeffrey E. Lewis, effective upon the date of confirmation by the Senate to serve a term of four years.

(Federal and State Affairs)

MESSAGE FROM THE HOUSE

The House nonconcurs in Senate amendments to **Senate Substitute for HB 2115**, requests a conference and appoints Representatives C. Holmes, Knox and Kuether as conferees on the part of the House.

The House nonconcurs in Senate amendments to **Senate Substitute for HB 2260**, requests a conference and appoints Representatives Brunk, Grange and Ruiz as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2250**, requests a conference and appoints Representatives Kinzer, Whitham and Pauls as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2152**, requests a conference and appoints Representatives Hayzlett, Vickrey and Long as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2155**, requests a conference and appoints Representatives Schwartz, M. Holmes and Garcia as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2072**, requests a conference and appoints Representatives Schwartz, Shultz and Flaharty as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 35**, and has appointed Representatives Schwartz, M. Holmes and Garcia as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 68**, and has appointed Representatives Kinzer, Whitham and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 160**, and has appointed Representatives Brunk, Grange and Ruiz as conferees on the part of the House.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Owens the Senate nonconcurred in the House amendments to **SB 66** and requested a conference committee be appointed.

The President appointed Senators Owens, D. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Reitz the Senate nonconcurred in the House amendments to **H Sub for SB 91** and requested a conference committee be appointed.

The President appointed Senators Reitz, Wagle and Faust-Goudeau as a conference committee on the part of the Senate.

On motion of Senator Brungardt the Senate nonconcurred in the House amendments to **SB 212** and requested a conference committee be appointed.

The President appointed Senators Brungardt, Reitz and Faust-Goudeau as a conference committee on the part of the Senate.

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to SB 225 and requested a conference committee be appointed.

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

ORIGINAL MOTION

On motion of Senator Emler, the Senate acceded to the request of the House for a conference on S Sub for HB 2072.

The President appointed Senators Vratil, McGinn and Kelly as conferees on the part of the Senate.

On motion of Senator Apple, the Senate acceded to the request of the House for a conference on S Sub for HB 2115.

The President appointed Senators Apple, Petersen and Lee as conferees on the part of the Senate.

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on HB 2152.

The President appointed Senators Umbarger, Marshall and Kultala as conferees on the part of the Senate.

On motion of Senator Owens, the Senate acceded to the request of the House for a conference on HB 2250.

The President appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

On motion of Senator Wysong, the Senate acceded to the request of the House for a conference on S Sub for HB 2260.

The President appointed Senators Wysong, Lynn and Holland as conferees on the part of the Senate.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Hensley as a member of the Conference Committee on SB 225 to replace Senator Kelly.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to Senate Substitute for HB 2354, submits the following report:

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

On page 1, in line 29, by striking the first "and" and inserting a comma;

On page 12, in line 2, by striking "\$8,231,690" and inserting "\$8,495,544"; On page 14, in line 36, by striking "\$895,096" and inserting "\$932,476"; On page 16, in line 2, by striking "\$1,812,999" and inserting "\$1,874,499"; in line 27, by striking "\$139,977" and inserting "\$152,768"; in line 41, by striking "\$750,076" and inserting "\$766,076";

On page 18, in line 41, by striking "\$2,762,312" and inserting "\$2,820,232"; On page 20, in line 34, by striking "\$266,706" and inserting "\$283,863";

On page 26, in line 24, by striking "\$16,113,762" and inserting "\$17,031,301";

On page 27, in line 30, by striking all following "meeting"; by striking all in lines 31 through 39; in line 40, by striking all preceding the period;

On page 29, in line 15, by striking all following "meeting"; by striking all in lines 16 through 23; in line 24, by striking all preceding the period;

On page 30, in line 12, by striking "\$2,422,600" and inserting "\$2,424,333"; in line 18, by striking "\$4,078,506" and inserting "\$4,153,111"; in line 25, by striking "\$963,352" and inserting "\$975,076";

On page 33, in line 17, by striking "\$4,225,896" and inserting "\$4,403,577";

On page 44, in line 10, by striking "\$1,177,003" and inserting "\$1,658,928"; in line 12, preceding the period by inserting ": Provided further, That \$251,834 shall be expended from this account for technology improvements and professional development before June 30, 2010";

On page 45, in line 28, by striking "\$11,993,011" and inserting "\$11,993,010";

On page 47, in line 5, by striking "\$100,803,728" and inserting "\$111,473,614";

On page 49, in line 36, by striking "\$68,414,349" and inserting "\$66,885,884"; in line 40, by striking "\$9,205,165" and inserting "\$11,041,630";

On page 52, in line 34, by striking "\$15,497,254" and inserting "\$16,290,795";

On page 53, following line 33, by inserting the following:

"(g) (1) In addition to other purposes for which expenditures may be made by the state corporation commission from the public service regulation fund for fiscal year 2010 for the state corporation commission as authorized by this or other appropriation act of the 2009 regular session of the legislature, notwithstanding the provisions of any other statute to the contrary, the state corporation commission may make expenditures from the public service regulation fund for fiscal year 2010 for expenses incurred by the Kansas electric transmission authority: Provided, That expenditures from the public service regulation fund for the expenses of the Kansas electric transmission authority for fiscal year 2010 shall not exceed \$98.413.

(2) In addition to other purposes for which expenditures may be made by the state corporation commission from the public service regulation fund for fiscal year 2011 for the state corporation commission as authorized by this or other appropriation act of the 2009 regular session of the legislature or by any appropriation act of the 2010 regular session of the legislature, notwithstanding the provisions of any other statute to the contrary, the state corporation commission may make expenditures from the public service regulation fund for fiscal year 2011 for expenses incurred by the Kansas electric transmission authority, if the total expenditures for such purpose authorized by the expenditure limitation prescribed by this subsection (g) for fiscal year 2010 are not expended or encumbered for fiscal year 2010, then the amount equal to the amount of such unexpended or encumbered expenditure authority for fiscal year 2010 remaining may be expended by the state corporation commission from the public service regulation fund for fiscal year 2011 for expenses incurred by the Kansas electric transmission authority and any such expenditures for fiscal year 2011 shall be in addition to any expenditure limitation imposed on the public service regulation fund for expenses incurred by the Kansas electric transmission authority for fiscal year 2011.";

Also on page 53, in line 41, by striking "\$772,118" and inserting "\$806,222";

On page 60, in line 39, by striking "\$0" and inserting "No limit"; On page 71, in line 20, by striking "\$1,517,348" and inserting "\$1,604,271"; On page 72, in line 6, by striking "\$1,8984,261" and inserting "\$19,244,024";

On page 90, following line 5, by inserting the following:

"Sec. 56.

KANSAS TECHNOLOGY ENTERPRISE CORPORATION

(a) There is appropriated for the above agency from the state economic development initiatives fund for the fiscal year ending June 30, 2010, the following:

Operations, assistance and grants (including official hospitality) \$10.494.718 Provided, That any unencumbered balance in the operations, assistance and grants (including official hospitality) account as of June 30, 2009, is hereby reappropriated for fiscal year 2010: Provided further, That expenditures from the operations, assistance and grants (including official hospitality) account for the fiscal year 2010 for salary and wages shall not exceed \$1,376,416.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2010, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

MAMTC federal fund	No limit
KTEC special revenue fund	No limit
(a) N ¹ more any empression of family freed upon and in a lung 20, 2010, but the	in an athan

(c) No moneys appropriated for the fiscal year ending June 30, 2010, by this or other

appropriation act of the 2009 regular session of the legislature for the Kansas technology enterprise corporation shall be expended for any bonus or other payment of additional compensation for any officer or employee of the Kansas technology enterprise corporation, or any subsidiary corporation, agency or instrumentality thereof, except longevity bonus payments pursuant to K.S.A. 75-5541, and amendments thereto, or as otherwise specifically authorized by statute or other bonus payments that are in conformance with the governor's executive order no. 08-09, which was filed with the secretary of state and was effective on June 15, 2008.

(d) In addition to the other purposes for which expenditures may be made by the Kansas technology enterprise corporation from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2010 for the Kansas technology enterprise corporation as authorized by this or other appropriation act of the 2009 regular session of the legislature, expenditures shall be made by the Kansas technology enterprise corporation from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2010, notwithstanding the provisions of any other statute, to adopt, implement and administer policies limiting bonus payments that are applicable to all officers and employees of the Kansas technology enterprise corporation for fiscal year 2010, that are equivalent to the provisions of the governor's executive order no. 08-09, or a succeeding executive order of the governor for fiscal year 2010, and that, in addition, include a prohibition on payment of any employee bonuses from any moneys of KTEC Holding, Inc., and to take all administrative and other actions as may be required, including adopting additional policies and entering into such new agreements, or modifications of existing agreements as may be required for the implementation and administration of such policies limiting bonus payments to officers and employees of Kansas technology enterprise corporation for fiscal year 2010.";

And renumbering sections accordingly;

On page 94, in line 40, by striking "\$6,604,483" and inserting "\$6,932,948";

On page 96, in line 2, by striking "\$49,875" and inserting "\$49,375"; in line 6, by striking "\$338,017" and inserting "\$95,017"; following line 21, by inserting the following:

"PKU treatment..... \$208.000": On page 99, by striking all in lines 40 through 43;

On page 110, in line 32, preceding the period by inserting ": And provided further, That notwithstanding the provisions of K.S.A. 2008 Supp. 75-5958, and amendments thereto, or any other statute, and subject to appropriations, the secretary of aging shall institute trending methods to provide rate increases for nursing facilities for fiscal year 2010"; in line 43, by striking "\$1,841,286" and inserting "\$1,814,286";

On page 115, in line 10, by striking "\$18,314,609" and inserting "\$19,514,609";

On page 116, by striking all in lines 11 through 17;

And relettering remaining subsections accordingly;

On page 117, in line 5, by striking "\$116,760,455" and inserting "\$115,470,727";

On page 118, in line 10, by striking "\$17,431,428" and inserting "\$17,343,956";

On page 119, in line 28, by striking "\$57,215,055" and inserting "\$61,215,055";

On page 120, in line 2, by striking "\$43,928,974" and inserting "\$45,210,781";

On page 128, in line 14, by striking "\$11,145,231" and inserting "\$11,077,070"; in line 36, by striking "\$374,253,137" and inserting "\$369,788,630";

On page 129, in line 9, by striking "\$2,022,535,466" and inserting "\$2,001,654,934";

On page 133, following line 23, by inserting the following:

"(f) On the effective date of this act, of the amount reappropriated for the above agency for the fiscal year ending June 30, 2009, by section 6(a) of chapter 184 of the 2008 Session Laws of Kansas from the state general fund in the Kansas career pipeline grant account, the sum of \$8,305 is hereby lapsed.";

Also on page 133, in line 28, by striking "\$1,727,355" and inserting "\$1,726,546"; in line 34, by striking "\$3,124,712" and inserting "\$3,192,912"; in line 39, by striking "\$2,052,972" and inserting "\$2,121,197"; in line 41, by striking "\$475,804" and inserting "\$475,779";

On page 135, in line 14, by striking "\$142,500" and inserting "\$140,625"; On page 136, in line 35, by striking "\$5,308,529" and inserting "\$5,573,466"; in line 41, by striking "\$70,188" and inserting "\$72,374";

On page 138, in line 37, by striking "\$32,440,402" and inserting "\$34,386,996"; in line 41, by striking "\$137,382" and inserting "\$139,257"; in line 42, by striking "\$282,466" and inserting "\$287,576";

On page 141, in line 2, by striking "hays" and inserting "Hays"; preceding line 3, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Fort Hays state university shall be expended only for deferred maintenance.";

Also on page 141, in line 13, by striking "hays" and inserting "Hays"; following line 13, by inserting the following material to read as follows:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Fort Hays state university shall be expended only for deferred maintenance.";

Also on page 141, in line 18, by striking "\$102,138,369" and inserting "\$109,301,449"; in line 22, by striking "\$137,625" and inserting "\$139,500";

On page 144, following line 3, by inserting the following:

"Provided, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university shall be expended only for deferred maintenance.";

Also on page 144, following line 14, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university shall be expended only for deferred maintenance.";

Also on page 144, in line 21, by striking "\$19,472,577" and inserting "\$19,738,609"; in line 26, by striking "\$29,508,814" and inserting "\$31,504,132";

On page 145, following line 41, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university extension systems and agriculture research programs shall be expended only for deferred maintenance.";

On page 146, following line 23, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university extension systems and agriculture research programs shall be expended only for deferred maintenance.";

Also on page 146, in line 28, by striking "\$9,853,407" and inserting "\$10,460,071";

On page 147, following line 35, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university veterinary medical center shall be expended only for deferred maintenance.";

On page 148, following line 3, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university veterinary medical center shall be expended only for deferred maintenance.";

Also on page 148, in line 8, by striking "\$30,703,760" and inserting "\$32,633,306"; in line 12, by striking "\$222,851" and inserting "\$225,887"; in line 13, by striking "\$133,740" and inserting "\$135,562";

On page 150, following line 5, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Emporia state university shall be expended only for deferred maintenance.";

Also on page 150, following line 16, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Emporia state university shall be expended only for deferred maintenance.";

Also on page 150, in line 21, by striking "\$33,807,357" and inserting "\$35,800,245";

On page 152, following line 16, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Pittsburg state university shall be expended only for deferred maintenance.";

Also on page 152, following line 28, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Pittsburg state university shall be expended only for deferred maintenance.";

Also on page 152, in line 33, by striking "\$127,861,708" and inserting "\$136,333,684"; in line 37, by striking "\$6,183,591" and inserting "\$6,268,088"; in line 41, by striking "\$137,494" and inserting "\$139,369";

On page 155, following line 4, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—university of Kansas shall be expended only for deferred maintenance.";

Also on page 155, in line 17, by striking "\$28,800" and inserting "\$34,400"; following line 31, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—university of Kansas shall be expended only for deferred maintenance.";

Also on page 155, in line 36, by striking "\$103,957,001" and inserting "\$108,184,188";

On page 156, in line 5, by striking "\$4,573,150" and inserting "\$4,635,650";

On page 158, following line 8, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—university of Kansas medical center shall be expended only for deferred maintenance.";

Also on page 158, following line 33, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—university of Kansas medical center shall be expended only for deferred maintenance.";

Also on page 158, in line 38, by striking "\$67,094,198" and inserting "\$68,930,425";

On page 160, following line 27, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Wichita state university shall be expended only for deferred maintenance.";

Also on page 160, following line 42, by inserting the following:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Wichita state university shall be expended only for deferred maintenance.";

On page 161, in line 6, by striking "\$3,345,276" and inserting "\$3,475,892";

On page 162, in line 38, preceding the period, by inserting ": *Provided further*, That all expenditures from the military service scholarships account shall be made for scholarships awarded under the military service scholarship program act";

On page 163, in line 16, by striking "\$11,199,070" and inserting "\$11,636,840"; in line 18, by striking "\$31,410,031" and inserting "\$32,637,844"; in line 21, by striking "\$1,491,540" and inserting "\$1,548,998"; in line 22, by striking "\$98,140,255" and inserting "\$101,976,543"; in line 24, by striking "\$407,319" and inserting "\$423,241"; in line 30, by striking "education" and inserting "regents"; in line 31, by striking "\$74,165" and inserting "\$76,035"; in line 37, by striking all following "That"; by striking all in lines 38 through 43;

On page 164, by striking all in lines 1 through 12; in line 13, by striking all preceding the period and inserting "all expenditures from the nurse educator grant program account shall be made for scholarships awarded under the nurse educator service scholarship program act"; in line 14, by striking "\$1,829,873" and inserting "\$1,900,000"; in line 27, by striking "\$739,160" and inserting "\$767,693"; by striking all in lines 28 through 36; following line 43, by inserting the following:

"*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund shall be expended only for deferred maintenance.";

Also on page 167, following line 21, by inserting the following:

"*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund—community colleges shall be expended only for deferred maintenance.";

Also on page 167, following line 23, by inserting the following:

"*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund—municipal university shall be expended only for deferred maintenance.";

Also on page 167, following line 25, by inserting the following:

"*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund—postsecondary technical education shall be expended only for deferred maintenance.";

Also on page 167, in line 43, by striking "year ending" and inserting "years ending June 30, 2009, and";

On page 168, in line 6, by striking "year ending" and inserting "years ending June 30, 2009, and"; in line 15, by striking "or"; in line 25, preceding the period, by inserting "of such institutions, or (3) a federal fiscal stabilization fund of a community college, the municipal university or an institution of postsecondary technical education";

On page 169, by striking all in lines 27 through 43;

On page 170, by striking all lines 1 through 20;

And by relettering the remaining subsections accordingly;

On page 171, following line 39, by inserting the following:

"Provided, That all moneys credited to the federal higher education fiscal stabilization fund shall be expended only for deferred maintenance.";

Also on page 171, following line 41, by inserting the following:

"Provided, That all moneys credited to the federal higher education fiscal stabilization fund—community colleges shall be expended only for deferred maintenance.";

Also on page 171, following line 43, by inserting the following:

"Provided, That all moneys credited to the federal higher education fiscal stabilization fund-municipal university shall be expended only for deferred maintenance.";

On page 172, following line 2, by inserting the following:

"Provided, That all moneys credited to the federal higher education fiscal stabilization fund-postsecondary technical education shall be expended only for deferred maintenance.";

Also on page 172, in line 32, by striking "\$47,474,380" and inserting "\$48,120,630";

On page 177, in line 28, by striking "\$3,430,891" and inserting "\$3,641,968"; On page 178, in line 21, by striking "\$3,838,351" and inserting "\$3,878,689"; in line 41, by striking "\$17,143,209" and inserting "\$16,932,132";

On page 181, in line 18, by striking "\$20,188,218" by inserting "\$961,059"; in line 20, by striking all preceding "from" and inserting "70(g) of 2009 House Substitute for Substitute for Senate Bill No. 23,"; in line 21, by striking "operating expenditures" and inserting "purchase of services";

On page 184, in line 8, by striking "\$0" and inserting "No limit";

On page 187, in line 42, by striking "\$34,044,235" and inserting "\$34,603,615";

On page 189, in line 31, by striking "\$18,985,357" and inserting "\$19,520,547"; On page 190, in line 25, by striking "\$4,823,244.50" and inserting "\$4,957,042";

On page 191, in line 7, by striking "(I)" and inserting "(i)"; in line 9, by striking "\$8,511,058.75" and inserting "\$8,650,903.75"; following line 16, by inserting the following:

"(i) On July 1, 2009, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$100,000 from the vehicle identification number fee fund of the Kansas highway patrol to the state general fund: Provided, That the transfer of such amount shall be in addition to any other transfer from the vehicle identification number fee fund to the state general fund as prescribed by law: Provided further, That the amount transferred from the vehicle identification number fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the Kansas highway patrol by other state agencies which receive appropriations from the state general fund to provide such services.

(k) On July 1, 2009, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$300,000 from the highway patrol motor vehicle fund of the Kansas highway patrol to the state general fund: Provided, That the transfer of such amount shall be in addition to any other transfer from the highway patrol motor vehicle fund to the state general fund as prescribed by law: Provided further, That the amount transferred from the highway patrol motor vehicle fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the Kansas highway patrol by other state agencies which receive appropriations from the state general fund to provide such services.";

Also on page 191, in line 21, by striking "\$14,286,269" and inserting "\$15,384,913"; On page 196, in line 40, by striking "\$662,746" and inserting "\$713,591";

On page 197, in line 1, by striking "\$7,745,439" and inserting "\$8,134,151"; by striking all in lines 13 through 24;

On page 205, following line 12, by inserting the following:

"(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 129(a) of chapter 131 of the 2008 Session Laws of Kansas on the state fair fee fund is hereby increased from \$10,000 to \$15,000.";

On page 225, in line 25, following "(a)", by inserting "In addition to the other purposes for which expenditures may be made by the governor's department from the governor's department account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the governor's department from the governor's department account of the state general fund for fiscal year 2010 for an additional amount of biweekly compensation for the governor equal to the amount required to provide, along with the amount of biweekly compensation otherwise payable, an aggregate amount of compensation of \$4,300.55 per biweekly pay period for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (a) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to the governor for the biweekly pay periods which are chargeable to fiscal year 2010.

(b) (1) In addition to the other purposes for which expenditures may be made by the lieutenant governor from the operations account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the lieutenant governor from the operations account of the state general fund for fiscal year 2010 for an additional amount of biweekly compensation for the lieutenant governor equal to the amount required to provide, along with the amount of biweekly compensation of \$1,216.39 per biweekly pay period for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (b) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to the lieutenant governor for the biweekly pay periods which are chargeable to fiscal year 2010.

(2) In addition to the other purposes for which expenditures may be made by the lieutenant governor from the operations account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the lieutenant governor from the operations account of the state general fund for fiscal year 2010 for an additional amount of allowance equal to the amount required to provide, along with the amount of allowance otherwise payable from appropriations for the lieutenant governor to the lieutenant governor at the rate prescribed by subsection (a)(1) of K.S.A. 75-3103, and amendments thereto, an aggregate amount of allowance of \$77.68 for the two-week period which coincides with the first biweekly payroll period which is chargeable to fiscal year 2010 and for each of the 25 ensuing two-week periods thereafter as reimbursement for expenses which are chargeable to fiscal year 2010, notwithstanding the provisions of subsection (a)(1) of K.S.A. 75-3103, and amendments thereto: Provided, That all expenditures under this subsection (b)(2) for such purposes shall be made in the same manner that such allowance is payable to the lieutenant governor for such two-week periods for which such allowance is payable in accordance with subsection (a)(1) of K.S.A. 75-3103, and amendments thereto, and which are chargeable to fiscal year 2010.

(c) In addition to the other purposes for which expenditures may be made by the secretary of state from one or more special revenue funds for the fiscal year ending June 30, 2010, expenditures shall be made by the secretary of state from one or more special revenue funds for fiscal year 2010 for an additional amount of biweekly compensation for the secretary of state equal to the amount required to provide, along with the amount of biweekly compensation otherwise payable, an aggregate amount of compensation of \$3,340.89 per biweekly pay period for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (c) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to the secretary of state for the biweekly pay periods which are chargeable to fiscal year 2010.

(d) In addition to the other purposes for which expenditures may be made by the attorney general from the operating expenditures account of the state general fund for the fiscal year

ending June 30, 2010, expenditures shall be made by the attorney general from the operating expenditures account of the state general fund for fiscal year 2010 for an additional amount of biweekly compensation for the attorney general equal to the amount required to provide, along with the amount of biweekly compensation otherwise payable, an aggregate amount of compensation of \$3,841.93 per biweekly pay period for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (d) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to the attorney general for the biweekly pay periods which are chargeable to fiscal year 2010.

(e) In addition to the other purposes for which expenditures may be made by the state treasurer from one or more special revenue funds for the fiscal year ending June 30, 2010, expenditures shall be made by the state treasurer from one or more special revenue funds for fiscal year 2010 for an additional amount of biweekly compensation for the state treasurer equal to the amount required to provide, along with the amount of biweekly compensation otherwise payable, an aggregate amount of compensation of \$3,340.89 per biweekly pay period for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (e) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to the state treasurer for the biweekly pay periods which are chargeable to fiscal year 2010.

(f) In addition to the other purposes for which expenditures may be made by the insurance department from the insurance department service regulation fund for the fiscal year ending June 30, 2010, expenditures shall be made by the insurance department from the insurance department service regulation fund for fiscal year 2010 for an additional amount of biweekly compensation for the commissioner of insurance equal to the amount required to provide, along with the amount of biweekly compensation otherwise payable, an aggregate amount of compensation of \$3,340.89 per biweekly pay period for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (f) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to the commissioner of insurance for the biweekly pay periods which are chargeable to fiscal year 2010.

(g) (1) In addition to the other purposes for which expenditures may be made by each state agency from appropriations made for the fiscal year ending June 30, 2010, expenditures shall be made by each state agency from the appropriations made for fiscal year 2010 for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of a board for any calendar day for which per diem compensation is payable to such member of a board under K.S.A. 75-3212 or 75-3223, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (g) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such member of a board days which are chargeable to fiscal year 2010.

(2) As used in this subsection (g), (A) "state agency" means any state agency of the executive branch of state government (i) which has appropriations made for the fiscal year ending June 30, 2010, by this act or any other appropriation act of the 2009 regular session of the legislature, and (ii) which is, or which makes expenditures for, any board; and

(B) "board" means any board, commission, committee, task force, panel or other body in the executive branch of state government, including any advisory body, having one or more members who are entitled to receive per diem compensation for attendance at meetings of such body, or attendance at meetings authorized by such body of a subcommittee or other subsidiary group of such body, as provided in K.S.A. 75-3212 or 75-3223, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto.

(h) In addition to the other purposes for which expenditures may be made by the Kansas turnpike authority for the period commencing July 1, 2009, and ending June 30, 2010, expenditures shall be made by the Kansas turnpike authority for such period for an additional amount of per diem compensation equal to the amount required to provide, along with the

amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the Kansas turnpike authority for any calendar day occurring on or after July 1, 2009, for which per diem compensation is payable to such member of the Kansas turnpike authority under K.S.A. 68-2003, and amendments thereto, who is entitled, in accordance with K.S.A. 75-3223, and amendments thereto, to receive such per diem compensation as provided in K.S.A. 75-3212, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (h) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such member of the Kansas turnpike authority for the appropriate pay periods for which such per diem compensation for calendar days occurring on or after July 1, 2009, and prior to July 1, 2010, is payable by the Kansas turnpike authority.

(i) In addition to the other purposes for which expenditures may be made by the legislature from the operations (including official hospitality) account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the legislature from the operations (including official hospitality) account of the state general fund for fiscal year 2010:

(1) For an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the legislature for service at the regular session or any special session of the legislature for any calendar day which is chargeable to fiscal year 2010; and

(2) for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the legislature and for any other public officer or person for any calendar day for which per diem compensation is payable from appropriations for the legislature to such member of the legislature, public officer or person under K.S.A. 75-3212 or 75-3223, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (i) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such members of the legislature, public officials and persons for the biweekly pay periods for which such per diem compensation for calendar days is payable and which are chargeable to fiscal year 2010.

(i) (1) In addition to the other purposes for which expenditures may be made by the legislature from the operations (including official hospitality) account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the legislature from the operations (including official hospitality) account of the state general fund for fiscal year 2010 for an additional amount of allowance equal to the amount required to provide, along with the amount of allowance otherwise payable from appropriations for the legislature to each member of the legislature at the rate prescribed by subsection (c) of K.S.A. 46-137a, and amendments thereto, an aggregate amount of allowance (A) of \$357.69 for the two-week period which coincides with the first biweekly payroll period which is chargeable to fiscal year 2010 and for each of the 14 ensuing two-week periods thereafter, and (B) of \$357.69 for the two-week period which coincides with the biweekly payroll period which includes April 4, 2010, which is chargeable to fiscal year 2010 and for each of the four ensuing two-week periods thereafter, for each member of the legislature to defray expenses incurred between sessions of the legislature for postage, telephone, office and other incidental expenses, which are chargeable to fiscal year 2010, notwithstanding the provisions of K.S.A. 46-137a, and amendments thereto: Provided, That all expenditures under this subsection (j)(1) for such purposes shall be made otherwise in the same manner that such allowance is payable to such members of the legislature for such two-week periods for which such allowance is payable in accordance with this subsection (j)(1) and which are chargeable to fiscal year 2010.

(2) In addition to the other purposes for which expenditures may be made by the legislature from the operations (including official hospitality) account of the state general fund for the fiscal year ending June 30, 2011, expenditures shall be made by the legislature from

the operations (including official hospitality) account of the state general fund for fiscal year 2011 for an additional amount of allowance equal to the amount required to provide, along with (A) the amount of allowance otherwise payable from appropriations for the legislature to each member of the legislature at the rate prescribed by subsection (c) of K.S.A. 46-137a, and amendments thereto, an aggregate amount of allowance of \$357.69, except as otherwise provided in this subsection (j)(2), for the two-week period which coincides with the first biweekly payroll period which is chargeable to fiscal year 2011 and for each of the 14 ensuing two-week periods thereafter, and (B) for the two-week period which coincides with the biweekly payroll period which includes April 3, 2011, which is chargeable to fiscal year 2011 and for each of the four ensuing two-week periods thereafter, for each member of the legislature to defray expenses incurred between sessions of the legislature for postage, telephone, office and other incidental expenses, which are chargeable to fiscal year 2011, notwithstanding the provisions of K.S.A. 46-137a, and amendments thereto: Provided, That, if the rates of compensation of the pay plan for persons in the classified service under the Kansas civil service act are increased for the payroll periods chargeable to the fiscal year ending June 30, 2011, then the aggregate amount of allowance payable under this subsection (j)(2) for the two-week period which coincides with the first biweekly pay period that such increase is effective and each of the two-week periods thereafter, which are chargeable to fiscal year 2011 and for which such allowance is payable under this subsection (j)(2), shall be increased by an amount computed by multiplying the average of the percentage increases in all steps of such pay plan by the aggregate amount of allowance otherwise payable under this subsection (j)(2): Provided further, That all expenditures under this subsection (j)(2) for such purposes shall be made otherwise in the same manner that such allowance is payable to such members of the legislature for such two-week periods for which such allowance is payable in accordance with this subsection (j)(2) and which are chargeable to fiscal year 2011.

(k) In addition to the other purposes for which expenditures may be made by the legislature from the operations (including official hospitality) account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the legislature from the operations (including official hospitality) account of the state general fund for fiscal year 2010 for an additional amount of biweekly compensation for the following legislative officers equal to the amount required to provide, along with the amount of biweekly compensation otherwise payable, an aggregate amount of compensation per biweekly pay period for such legislative officers as follows:

(1) For the president of the senate and the speaker of the house of representatives equal to the amount required to provide an aggregate amount of \$545.37 per biweekly pay period for services performed in connection with discharging the duties assigned to the respective positions for each biweekly pay period which is chargeable to fiscal year 2010;

(2) for the speaker pro tem of the house of representatives, the vice president of the senate, the assistant majority leaders of the senate and house of representatives, and the assistant minority leaders of the senate and house of representatives equal to the amount required to provide an aggregate amount of \$278.35 per biweekly pay period for services performed in connection with discharging the duties assigned to the respective positions for each biweekly pay period which is chargeable to fiscal year 2010;

(3) for the chairperson of the senate committee on ways and means and the chairperson of the house of representatives committee on appropriations equal to the amount required to provide an aggregate amount of \$438.57 per biweekly pay period for services performed in connection with discharging the duties assigned to the respective positions for each biweekly pay period which is chargeable to fiscal year 2010;

(4) for the majority leaders of the senate and house of representatives equal to the amount required to provide an aggregate amount of \$492.01 per biweekly pay period for services performed in connection with discharging the duties assigned to the respective positions for each biweekly pay period which is chargeable to fiscal year 2010; and

(5) for the minority leaders of the senate and house of representatives equal to the amount required to provide an aggregate amount of \$492.01 per biweekly pay period for services performed in connection with discharging the duties assigned to the respective positions for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all ex-

penditures under this subsection (k) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to such legislative officers under K.S.A. 46-137b, and amendments thereto, for the biweekly pay periods which are chargeable to fiscal year 2010.

(I) In addition to the other purposes for which expenditures may be made by the legislative coordinating council from the legislative coordinating council-operations account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the legislative coordinating council from the legislative coordinating council—operations account of the state general fund for fiscal year 2010 for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the legislative coordinating council for any calendar day for which per diem compensation is payable from appropriations for the legislative coordinating council under K.S.A. 46-1209, and amendments thereto, to such member as provided in K.S.A. 75-3212, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and which is chargeable to fiscal year 2010: Provided, That all expenditures under this subsection (1) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such members of the legislative coordinating council for the biweekly pay periods for which such per diem compensation is payable for calendar days which are chargeable to fiscal year 2010.

(m) In addition to the other purposes for which expenditures may be made by the division of post audit from the operations (including legislative post audit committee) account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the division of post audit from the operations (including legislative post audit committee) account of the state general fund for fiscal year 2010:

(1) For an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the legislative post audit committee for any calendar day for which per diem compensation is payable from appropriations for the division of post audit under K.S.A. 46-1104, and amendments thereto, to such member as provided in K.S.A. 75-3212 and amendments thereto at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and which is charge-able to fiscal year 2010; and

(2) for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the contract audit committee for any calendar day for which per diem compensation is payable from appropriations for the division of post audit under K.S.A. 46-1120, and amendments thereto, to such member as provided in K.S.A. 75-3223, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (m) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such members of the legislative post audit committee or contract audit committee for the biweekly pay periods for which such per diem compensation is payable for calendar day swhich are chargeable to fiscal year 2010.

(n) In addition to the other purposes for which expenditures may be made by the judicial branch from the judiciary operations account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the judicial branch from the judiciary operations account of the state general fund for fiscal year 2010:

(1) for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the advisory council on dispute resolution for any calendar day for which per diem compensation is payable to such member of the advisory council on dispute resolution under K.S.A. 5-505, and amendments thereto, who is entitled, in accordance with subsection (e) of K.S.A. 75-3223, and amendments thereto, to receive such per diem compensation as provided in K.S.A. 75-3212,

and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and which is chargeable to fiscal year 2010; and

(2) for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each retired justice or judge who performs judicial service or duties under K.S.A. 20-2616, and amendments thereto, for each calendar day for which per diem compensation is payable to such retired justice or judge under K.S.A. 20-2616, and amendments thereto, for each calendar day for which per diem compensation is payable to such retired justice or judge under K.S.A. 20-2616, and amendments thereto, and is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (n) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such members of the advisory council on dispute resolution or to such retired justices or judges for the biweekly pay periods for which such per diem compensation is payable and which are chargeable to fiscal year 2010.

(o) In addition to the other purposes for which expenditures may be made by the judicial council from the operating expenditures account of the state general fund and one or more special revenue funds for the fiscal year ending June 30, 2010, expenditures shall be made by the judicial council from the operating expenditures account of the state general fund for fiscal year 2010 for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the judicial council and for each regularly appointed member of a special committee of the judicial council who is not a member of the judicial council for any calendar day for which per diem compensation is payable to such member of the judicial council or a special committee thereof under K.S.A. 20-2206, and amendments thereto, at the rate of compensation in accordance with K.S.A. 75-3212, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and is chargeable to fiscal year 2010: Provided, That all expenditures under this subsection (o) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such members of the judicial council or special committees thereof for the biweekly pay periods for which such per diem compensation is payable and which are chargeable to fiscal vear 2010.

(p) In addition to the other purposes for which expenditures may be made by state agencies from one or more accounts of the state general fund and one or more special revenue funds in accordance with appropriations for the fiscal year ending June 30, 2010, made by this or other appropriation act of the 2009 regular session of the legislature for additional amounts of compensation for state officers and employees in accordance with the following:

(1) The governor is hereby authorized to modify the pay plan for the classified service under the Kansas civil service act for fiscal year 2010 in accordance with this subsection (p)(1) and to adopt such pay plan as so modified; the existing pay plan for fiscal year 2010 shall be modified to provide for (A) a base pay rate increase of 1.0% in the pay rates of such pay plan, which shall be effective on the first day of the first biweekly payroll period which is chargeable to the fiscal year ending June 30, 2010, (B) additional modifications to implement the recommendations of the state employee compensation oversight commission, including (i) the design, development and implementation of the five recommended pay plans, (ii) development and implementation of a new statewide employee performance management system for classified executive branch employees, and (iii) performing market salary surveys on one-third of the executive branch classified workforce annually, and (C) market adjustments to the job classes determined to be significantly below market salary rates, which shall be effective on the first day of the first biweekly payroll period which is chargeable to the fiscal year ending June 30, 2010, for positions in such job classifications; the pay plan adopted by the governor under this subsection (p)(1) shall be the pay plan for the classified service under the Kansas civil service act and shall be effective on the first day of the first biweekly payroll period which is specified therefor in this subsection (p)(1) and which is chargeable to the fiscal year ending June 30, 2010; the pay plan adopted by the governor under this subsection (p)(1) for fiscal year 2010 shall be subject to modification and approval

as provided under K.S.A. 75-2938, and amendments thereto, and to any enactment of the legislature applicable thereto;

(2) The governor is hereby authorized to modify or authorize the modification of the salaries of state officers and employees who are in the unclassified service under the Kansas civil service act and whose salaries are subject to approval by the governor under K.S.A. 75-2935b or 75-2935c, and amendments thereto, to provide for base salary increases, to be effective on the first day of the first payroll period which is chargeable to the fiscal year ending on June 30, 2010, for which the base salary increase is authorized in accordance with this subsection (p)(2), and to be distributed from a salary increase pool: *Provided*, That for each biweekly payroll period which is chargeable to fiscal year 2010, the average of such increases shall not exceed an additional 1.0% of the base salaries of such officers and employees; and

(3) each elected state official of the executive branch of state government, including the state board of education, the state board of regents and the board of trustees of the Kansas public employees retirement system, in each such official, corporation or board's discretion, are hereby authorized to modify or to authorize the modification of the salaries of the state officers and employees of such official, corporation or board, who are in the unclassified service under the Kansas civil service act and whose salaries are not subject to approval by the governor under K.S.A. 75-2935b, and amendments thereto, to provide for base salary increases to be effective on the first day of the first payroll period which is chargeable to the fiscal year ending June 30, 2010, for which the base salary increase is authorized in accordance with this subsection (p)(3), and to be distributed from a salary increase pool: *Provided*, That for each biweekly payroll period which is chargeable to fiscal year 2010, the average of such increases shall not exceed an additional 1.0% of the base salaries of such officers and employees of such official, corporation or board. The provisions of this subsection (p)(3) shall not authorize or provide any salary increase for the governor, lieutenant governor, secretary of state, state treasurer, commissioner of insurance, or attorney general, or for any member of any state board, commission, council or committee receiving per diem compensation as provided by statute.

(q)";

Also on page 225, in line 43, by striking "(a)" and inserting "(q)"; On page 226, in line 10, by striking "(a)" and inserting "(q)"; by striking all in lines 13 through 17; in line 18, by striking "(c)" and inserting "(r)"; in line 24, by striking "(a)" and inserting "(q)";

On page 228, in line 20, by striking "\$0" and inserting "No limit";

On page 230, by striking all in lines 19 through 22;

On page 231, in line 10, by striking "\$3,636,655" and inserting "\$4,062,950";

On page 255, following line 14, by inserting the following to read as follows:

"(f) In addition to the other purposes for which expenditures may be made by the university of Kansas medical center from the moneys appropriated from any special revenue fund for fiscal year 2010 or fiscal year 2011 as authorized by this or other appropriation act of the 2009 regular session of the legislature or by any appropriation act of the 2010 regular session of the legislature, expenditures shall be made by the university of Kansas medical center of the moneys appropriated from any special revenue fund for fiscal year 2010 or for fiscal year 2011 to provide for the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto, for a capital improvement project to renovate the Hixon/Wahl east/Wahl west laboratory complex. Provided, That such capital improvement project is hereby approved for the university of Kansas medical center for the purposes of subsection (b) of K.S.A. 74-8905, and amendments thereto, and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with that statute: Provided further, That the university of Kansas medical center may make expenditures from the moneys received from the issuance of any such bonds for such capital improvement project: Provided, however, That expenditures from the moneys received from the issuance of any such bonds for such capital improvement project shall not exceed \$34,000,000, plus all amounts required for costs of bond issuance, costs of interest on the bonds issued for such capital improvement project during the construction of such project, credit enhancement costs and any required reserves for payment

of principal and interest on the bonds: *And provided further*, That all moneys received from the issuance of any such bonds shall be deposited and accounted for as prescribed by applicable bond covenants: *And provided further*, That debt service for any such bonds for such capital improvement projects shall be financed by appropriations from any appropriate special revenue fund or funds, including, but not limited to, money deposited in such fund or funds from amounts derived pursuant to K.S.A. 19-5001 et seq., and amendments thereto.";

On page 258, following line 8, by inserting the following:

"(d) On the effective date of this act, notwithstanding the provisions of chapter 167 or 201 of the 2007 Session Laws of Kansas, chapter 131, 156, 159, 160, 164, 172 or 184 of the 2008 Session Laws of Kansas, 2009 House Substitute for Substitute for Senate Bill No. 23, or this or any other appropriation act or any other act of the 2009 regular session or any other statute and notwithstanding the provisions of state finance council resolution no. 07-572, the approval of the state finance council for the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto, for capital improvement projects to expand prison capacity, as set forth in state finance council resolution no. 07-572 pursuant to subsection (d) of section 185 of chapter 167 of the 2007 Session Laws of Kansas, and the authority of the Kansas development finance authority to issue any bonds on or after the effective date of this act to finance the cost of such capital improvement projects to expand prison capacity pursuant to such approval, are hereby modified as follows: (1) The limitation on the aggregate amount of revenue bonds authorized to be issued for capital improvement projects to expand prison capacity pursuant to subsection (d) of section 11 of chapter 184 of the 2008 Session Laws of Kansas is hereby decreased from \$19,525,000 to \$1,700,000 and (2) no moneys appropriated for the department of corrections or any correctional institution by chapter 131 or 184 of the 2008 Session Laws of Kansas, 2009 House Substitute for Substitute for Senate Bill No. 23, or this or any other appropriation act or any other act of the 2009 regular session for the fiscal years ending June 30, 2009, or June 30, 2010, shall be expended to authorize or enter into any contract or other agreement to initiate, implement or administer any actual construction work for any such capital improvement project to expand prison capacity prior to July 1, 2010, or to authorize any expenditure of any bond proceeds for any actual construction work for any such capital improvement project to expand prison capacity prior to July 1, 2010, or to authorize, request or otherwise provide for the issuance of any revenue bonds to finance any actual construction work for any such capital improvement project to expand prison capacity to commence, prior to July 1, 2010: Provided, That no bonds shall be issued by the Kansas development finance authority to finance any actual construction work for any such capital improvement project to expand prison capacity prior to July 1, 2010, and no money received as proceeds for any such revenue for any actual construction work for any such capital improvement project to expand prison capacity bonds shall be expended prior to July 1, 2010.";

Also on page 258, in line 15, by striking "\$723,028" and inserting "\$797,198";

On page 259, following line 16, by inserting the following:

"(b) On July 1, 2009, of the unencumbered balance in the land acquisition account of the state general fund in excess of \$100 as of June 30, 2009, the amount of \$57,717 is hereby reappropriated to the operating expenditures account of the attorney general—Kansas bureau of investigation for fiscal year 2010: *Provided*, That, if the unencumbered balance in the land acquisition account of the state general fund in excess of \$100 as of June 30, 2009, is less than \$57, 717, then any unencumbered balance in the land acquisition account of the state general fund in excess of \$100 as of June 30, 2009, is less than \$57, 717, then any unencumbered balance in the land acquisition account of the state general fund in excess of \$100 as of June 30, 2009, is hereby reappropriated to the operating expenditures account of the attorney general—Kansas bureau of investigation for fiscal year 2010.";

On page 261, in line 32, by striking "\$3,117,470" and inserting "\$2,617,470";

On page 275, by striking all in lines 17 through 30 and inserting the following:

"Sec. 137. On July 1, 2009, K.S.A. 2008 Supp. 55-193, as amended by section 87 of 2009 House Substitute for Substitute for Senate Bill No. 23, is hereby amended to read as follows: 55-193. On July 15, 1996, and on the 15th day of each calendar quarter thereafter before July 1, 2016, the director of accounts and reports shall transfer \$100,000 from the state general fund, \$100,000 from the state water plan fund established by K.S.A. 82a-951 and amendments thereto and \$100,000 from the conservation fee fund established by K.S.A. 55-143 and amendments thereto to the abandoned oil and gas well fund established by K.S.A. 55-192 and amendments thereto, except that: (a) No transfers shall be made pursuant to this section from the state general fund to the abandoned oil and gas well fund during state fiscal year 2009 or state fiscal year 2010; and (b) the aggregate of the transfers made pursuant to this section from the state water plan fund to the abandoned oil and gas well fund during state fiscal year 2009 shall not exceed \$320,000; and (c) the aggregate of the transfers made pursuant to this section from the state water plan fund to the abandoned oil and gas well fund during state fiscal year 2010 shall not exceed \$288,000.";

On page 278, in line 3, by striking "the effective date of this act" and inserting "July 1, 2009"; in line 36, preceding "subject" by inserting "and on June 1, 2009,";

On page 280, in line 21, by striking "the amount equal to 50% of"; in line 29, preceding "(C)" by inserting "an amount equal to 50% of the maximum amount determined pursuant to subsection (g) shall be transferred from the state general fund to the business machinery and equipment tax reduction assistance fund on June 1, 2009, and";

On page 281, in line 43, by striking "the effective date of this act" and inserting "July 1, 2009";

On page 282, in line 37, preceding "subject" by inserting "and on June 1, 2009,";

On page 284, in line 17, by striking "the amount equal to 50% of"; in line 25, preceding "(C)" by inserting "and an amount equal to 50% of the maximum amount determined pursuant to subsection (f) shall be transferred from the state general fund to the telecommunications and railroad machinery and equipment tax reduction assistance fund on June 1, 2009, and";

On page 285, by striking all in lines 41 through 43;

By striking all on page 286;

On page 287, by striking all in lines 1 through 7 and inserting the following:

"Sec. 144. On July 1, 2009, K.S.A. 2008 Supp. 79-3425i, as amended by section 90 of 2009 House Substitute for Substitute for Senate Bill No. 23, is hereby amended to read as follows: 79-3425i. On January 15 and July 15 of each year, the director of accounts and reports shall transfer a sum equal to the total taxes collected under the provisions of K.S.A. 79-6a04 and 79-6a10, and amendments thereto, and credited to the state general fund during the six months next preceding the date of transfer, from the state general fund to the special city and county highway fund, created by K.S.A. 79-3425, and amendments thereto, except that: (1) Such transfers are subject to reduction under K.S.A. 75-6704, and amendments thereto; (2) the amount of moneys transferred from the state general fund to the special city and county highway fund during state fiscal year 2009 on each such date shall not exceed \$3,330,543.50; and (3) the amount of moneys transferred from the state general fund to the special city and county highway fund during state fiscal year 2010 on each such date shall not exceed \$5,031,832 \$2,515,916; and (4) notwithstanding the provisions of K.S.A. 79-3425c and 75-3425i 79-3425i, and amendments thereto, or any other statute, the aggregate amount of \$6,661,087 of the moneys credited to the special city and county highway fund shall be paid on or before April 14, 2009, by the state treasurer in accordance with the following to the following counties in the amounts specified respectively therefor with the requirement that the moneys received by each such county shall be deposited and administered in accordance with K.S.A. 79-3425c, and amendments thereto, including any redistributions provided for by that statute: Barton county, \$174,544.98; Butler county, \$890,898.90; Chautauqua county, \$7,293.76; Clay county, \$15,533.75; Comanche county, \$15,525.56; Cowley county, \$151,493.36; Douglas county, \$1,152,561.96; Finney county, \$38,376.16; Geary county, \$41,101.83; Grant county, \$11,827.23; Lane county, \$6,986.21; Leavenworth county, \$655,874.14; Ness county, \$13,000.51; Rice county, \$9,780.91; Russell county, \$18,610.55; Shawnee county, \$3,299,659.69; Sherman county, \$29,689.72; Stevens county, \$7,532.41; Trego county, \$4,257.37; and Wyandotte county, \$116,537.47, which shall be for the purpose of providing such counties, cities and other local governmental entities the amounts that were not paid as directed by statute during state fiscal years 2006, 2007 and 2008. All transfers under this section shall be considered to be demand transfers from the state general fund except that all such transfers during the fiscal years ending June 30, 2009

2010, and June 30, 2010 2011, shall be considered to be revenue transfers from the state general fund. Any transfers of moneys from the state general fund to the special city and county highway fund during the state fiscal year ending June 30, 2009, pursuant to the provisions of K.S.A. 79-3425i, and amendments thereto, or any other statute, that have been made prior to the effective date of this act shall be reversed by the director of accounts and reports and reversing entries shall be entered upon the accounting records of the state treasurer therefor.

Sec. 145. On July 1, 2009, K.S.A. 2008 Supp. 79-4801, as amended by section 92 of 2009 House Substitute for Substitute for Senate Bill No. 23, is hereby amended to read as follows: 79-4801. There is hereby created the state gaming revenues fund in the state treasury. All moneys credited to such fund shall be expended or transferred only for the purposes and in the manner provided by this act and all expenditures from the state gaming revenues fund shall be made in accordance with appropriation acts. All moneys credited to such fund shall be allocated and credited monthly to the funds and in the amounts specified by this act except that the total of the amounts credited to such funds in any one fiscal year pursuant to this act shall not exceed \$50,000,000, except that the total of the amounts credited to such funds for fiscal year 2009, pursuant to this act shall not exceed \$48,059,846. All amounts credited to such fund in any one fiscal year which are in excess of \$50,000,000 shall be transferred and credited to the state general fund on July 15, 1996, and June 25, 1997, and each year thereafter on June 25, except that: (a) All amounts credited to the state gaming revenues fund in fiscal year 2009 which are in excess of \$48,059,846 shall be transferred and credited to the state general fund on July 15, 2009, and shall be recorded and accounted for as receipts to the state general fund for fiscal year 2009; and (b) all amounts credited to the state gaming revenues fund in fiscal year 2010 which are in excess of \$50,000,000 shall be transferred and credited to the state general fund on July 15, 2010, and shall be recorded and accounted for as receipts to the state general fund for fiscal year 2010; and (c) all amounts credited to the state gaming revenues fund in fiscal year 2011 which are in excess of \$50,000,000 shall be transferred and credited to the state general fund on July 15, 2011, and shall be recorded and accounted for as receipts to the state general fund for fiscal year 2011.

Sec. 146. On July 1, 2009, K.S.A. 2008 Supp. 82a-953a, as amended by section 93 of 2009 House Substitute for Substitute for Senate Bill No. 23, is hereby amended to read as follows: 82a-953a. During each fiscal year, the director of accounts and reports shall transfer \$6,000,000 from the state general fund to the state water plan fund created by K.S.A. 82a-951, and amendments thereto, one-half of such amount to be transferred on July 15 and one-half to be transferred on January 15, except that (1) such transfers during each fiscal year commencing after June 30, 2008, are subject to reduction under K.S.A. 75-6704, and amendments thereto, and (2) the total amount of moneys transferred from the state general fund to the state water plan fund during the fiscal year ending June 30, 2009, shall not exceed \$2,000,000, and (3) the total amount of moneys transferred from the state general fund to the state water plan fund during the fiscal year ending June 30, 2010, shall not exceed \$3,295,432. On the effective date of this act, the director of accounts and reports shall transfer the amount in excess of \$2,000,000 which was transferred from the state general fund to the state water plan fund prior to the effective date of this act during the fiscal year ending June 30, 2009, as certified by the director of the budget to the director of accounts and reports to the state general fund. All transfers under this section shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal years ending June 30, 2008, and June 30, 2009, shall be considered revenue transfers from the state general fund.":

Also on page 287, in line 8, by striking "the effective date of this act" and inserting "July 1, 2009"; in line 12, following "55-193," by inserting "as amended by section 87 of 2009 House Substitute for Substitute for Senate Bill No. 23,"; in line 13, by striking "79-4801 and 82a-953a" and inserting "as amended by section 90 of 2009 House Substitute for Substitute for Substitute for Senate Bill No. 23, amended by section 92 of 2009 House Substitute for Substitute for Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Senate Bill No. 23, ";

On page 289, by striking all in lines 15 through 43;

By striking all on page 290;

On page 291, by striking all in lines 1 through 26;

By renumbering the remaining sections accordingly;

In the title, in line 13, by striking "and" and inserting a comma; in line 18, by striking all following "amending"; in line 19, by striking "Kansas,"; in line 20, following "55-193," by inserting "as amended by section 87 of 2009 House Substitute for Substitute for Senate Bill No. 23,"; in line 24, by striking "79-4801 and 82a-953a" and inserting "as amended by section 90 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-4801, as amended by section 92 of 2009 House Substitute for Substitute for Substitute for Senate Bill No. 23, as amended by section 93 of 2009 House Substitute for Substitute for Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Substitute for Substitute for Substitute for Senate Bill No. 23, ";

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

JAY SCOTT EMLER CAROLYN MCGINN LAURA KELLY Conferees on part of Senate

KEVIN W. YODER JASON P. WATKINS BILL FEUERBORN Conferees on part of House

Senator Emler moved the Senate adopt the Conference Committee Report on **S Sub for HB 2354**.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Holland, Huelskamp, Pilcher-Cook, Pyle, Schmidt D.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote aye on the budget conference committee to move the process forward in a very difficult time. Every area in the budget has been cut, including education— \$66 over 2 years on the base, and 1% special education. We did not fund the CPIU and are below the promised 4th year for the education plan. All schools are cutting budgets. Small and rural schools will especially be affected. This is really a total of 5.1% cut instead of .1% cut. A cut for special education is really a cut on the general fund, too. I am concerned that with the decrease on the general fund, our stimulus dollars and the waiver for special education may be affected. However the cuts could have been worse and that is why I voted yes.—JEAN SCHODORF

Senators Abrams, Barnett, Teichman and Umbarger requests the record to show they concur with the "Explanation of Vote" offered by Senator Schodorf on S Sub for HB 2364.

REPORT ON ENGROSSED BILLS

Sub SB 184 reported correctly engrossed March 30, 2009.
SB 60 reported correctly engrossed March 31, 2009.
Also, SB 9, SB 39, SB 253 correctly re-engrossed March 31, 2009.

REPORT ON ENROLLED BILLS

SB l, SB 64, SB 72, SB 85, SB 163, SB 178 reported correctly enrolled, properly signed and presented to the Governor on March 31, 2009.

COMMITTEE OF THE WHOLE

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

On motion of Senator Brungardt the following report was adopted:

HCR 5015 be adopted.

HB 2221 be amended by adoption of the committee amendments, on March 25, 2009, be further amended by motion of Senator Masterson, on page 4, following line 13, by inserting the following:

"(i) "Outdoor recreational facility" means a hunting, fishing, shooting or golf club, business or enterprise operated primarily for the benefit of its owners, members and their guests and not normally open to the general public.";

Also on page 4, following line 21, by inserting the following:

"(k) "Private club" means an outdoor recreational facility operated primarily for the use of its owners, members and their guests that in its ordinary course of business is not open to the general public for which use of its facilities has substantial dues or membership fee requirements for its members.";

On page 5, following line 7, by inserting the following:

"(q) "Substantial dues or membership fee requirements" means initiation costs, dues or fees proportional to the cost of membership in similarly-situated outdoor recreational facilities that are not considered nominal and implemented to otherwise avoid or evade restrictions of a statewide ban on smoking.";

And by relettering subsections accordingly;

On page 6, in line 23, by striking "and"; in line 29, by striking the period and inserting "; and

(9) a private club in designated areas where minors are prohibited.";

On page 7, following line 38, by inserting the following:

"New Sec. 6. The director of alcoholic beverage control is hereby authorized to promulgate rules and regulations to insure any exemption from the statewide ban on smoking is bona fide and the entity seeking such exemption is not inappropriately seeking to circumvent the smoking ban created under this act.";

And by renumbering sections accordingly, and **HB 2221** be passed as further amended. Senator Masterson made a second motion to further amend **HB 2221**, on page 4, in line 22, followed "owned" by inserting ", leased";

On page 6, by striking all in lines 11 through 13;

And by renumbering subsections accordingly

The motion failed and the amendment was rejected.

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

On roll call, the vote was: Yeas 17, Nays 22, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Brownlee, Bruce, Colyer, Donovan, Francisco, Huelskamp, Kelsey, Masterson, McGinn, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Taddiken, Wagle.

Nays: Apple, Barnett, Brungardt, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kultala, Lee, Lynn, Marshall, Morris, Owens, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Emler.

The motion failed and the amendment was rejected.

A motion by Senator Wagle to further amend **HB 2221** failed and the following amendment was rejected: on page 6, following line 29, by inserting the following:

"(e) If a city or county currently regulates smoking within its boundaries, such local regulation shall control to the extent of any inconsistency between such regulation and this act.";

On page 14, in line 24, preceding "21-4016" by inserting "21-4013,";

In the title, in line 17, following "K.S.A." by inserting "21-4013,"

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

On roll call, the vote was: Yeas 12, Nays 28, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Brownlee, Bruce, Donovan, Huelskamp, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Taddiken, Wagle.

Nays: Apple, Barnett, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wysong.

The motion failed and the amendment was rejected.

A second motion by Senator Wagle to further amend **HB 2221** failed and the following amendment was rejected: on page 2, by striking all in lines 30 through 43;

By striking all on pages 3 through 7;

On page 8, by striking all in lines 1 through 34 and inserting the following:

"New Section 1. (a) The provisions of this section shall be known and may be cited as the Kansas nonsmoker protection act.

(b) As used in this section:

(1) "Commercial motor vehicle" means a motor vehicle used on a highway in interstate or intrastate commerce to transport property when the vehicle:

(A) Has a gross weight rating, or gross vehicle weight or gross combination weight of 10,001 pounds or more; and

(B) is not used in transporting material found by the United States secretary of transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the United States secretary of transportation under 49 C.F.R., subtitle B, chapter I, subchapter C, and is subject to the provisions of 49 C.F.R. 397.13 as enacted on December 12, 1994.

(2) "Employee" means any person who performs any service on a full-time, part-time or contracted basis whether or not the person is denominated an employee, independent contractor or otherwise and whether or not the person is compensated or is a volunteer;

(3) "employer" means a person, business, partnership, association, the state of Kansas and its political subdivisions, corporation, including a municipal corporation, trust or non-profit entity that employs the services of one or more individual persons;

(4) "enclosed area" means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows, exclusive of doorways, which extend from the floor to the ceiling. "Enclosed area" includes a reasonable distance from any entrances, windows and ventilation systems so that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and so that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means;

(5) "medical care facility" means a doctor's office, general hospital, special hospital, ambulatory surgery center or recuperation center, as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto;

(6) "person" means an individual, partnership, corporation, limited liability company, entity, association, governmental subdivision or unit of a governmental subdivision or a public or private organization of any character;

(7) "physically separated" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows, exclusive of door or passageway, and independently ventilated from smoke-free areas, so that air within permitted smoking areas does not drift or get vented into smoke-free areas;

 $(\tilde{8})$ "place of employment" means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including office buildings, work areas, auditoriums, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, stairs, elevators, health care facilities, private offices and vehicles owned and operated by the employer during working hours when the vehicle is occupied by more than one person. A private residence or vehicle is not a "place of employment" unless it is used as a licensed child care, adult day care or medical care facility;

(9) "public place" means an enclosed area of any place which the public is invited or in which the public is permitted, including airports, banks, common areas of multi-family housing facilities, such as apartment buildings and condominiums, entertainment venues, medical care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food establishments, retail service establish-

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ments, retail stores, schools, shopping malls, sports facilities, theaters and waiting rooms. A private residence or vehicle is not a "public place" unless it is used as a licensed child care, adult day care or medical care facility, taxi or other commercial vehicle for hire;

(10) "retail tobacco store" means a retail store that derives its largest category of sales from tobacco products and accessories. "Retail tobacco store" does not include grocery stores, convenience stores, gas stations, general retailers or similar retail establishments;

(11) "smoking" means inhaling, exhaling, burning or carrying or possessing any lighted tobacco product, including cigars, cigarettes, pipe tobacco and any other lighted tobacco product;

(12) "sports facilities" means enclosed areas of sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, billiard halls, bowling alleys and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition or witness sporting events;

(13) "bar" means an establishment that is primarily devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges and cabarets; and

(14) "cigar bar" means an enclosed area that holds itself out to the public as a cigar bar, and in which:

(A) Access is denied to any person under the legal age for the purchase or sale of tobacco;

(B) cigars or tobacco products or both are sold for consumption on the premises; and

 $\rm (C)$ sales of cigars and all tobacco products and sales or rentals of cigar accessories account for not less than 5% of the annual gross revenues of the business.

(c) Smoking is prohibited in all public places and places of employment within the state of Kansas, except the following:

(1) Private residences, except when used as a licensed child care, adult day care or medical care facility;

(2) hotel and motel rooms that are rented to guests and are designated as smoking rooms;

(3) retail tobacco stores that prohibit minors on the premises;

(4) nonenclosed areas of public spaces, outdoor patios, as long as tobacco smoke is not reasonably expected to enter areas where smoking is prohibited;

(5) bars, cigar bars, a class A club licensed pursuant to K.S.A. 41-2601 et seq., and amendments thereto, and a class B club licensed pursuant to K.S.A. 41-2601 et seq., and amendments thereto;

(6) private automobiles, except when used for the public transportation of children or for transportation by a medical care facility or day care facility or when used as a taxi or other commercial vehicle for hire;

(7) all premises of any manufacturer, importer or wholesaler of tobacco products, of any tobacco leaf dealer or processor and all tobacco storage facilities;

(8) physically separate smoking area or areas of a restaurant if the owner chooses to provide such an area;

(9) a restaurant which has been designated by the owner as a totally smoking area, prohibits the entry of persons under 18 years of age at all times and complies with the notice provisions set out in subsection (f)(4);

(10) any casino or other establishment which operates class two or class three games, as defined in the 1991 version of 25 U.S.C. 2703;

(11) a benefit cigar dinner or other smoking event conducted specifically and exclusively for charitable purposes;

(12) that portion of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, that is expressly designated as a smoking area by the proprietor or other person in charge of such adult care home pursuant to subsection (c) and that is fully enclosed and ventilated; and that portion of a licensed long-term care unit of a medical care facility that is expressly designated as a smoking area by the proprietor or other person in charge of such medical care facility pursuant to subsection (c) and that is fully enclosed and ventilated and to which access is restricted to the residents and their guests; and

(13) any Kansas soldiers' home established pursuant to K.S.A. 76-1901 et seq., and amendments thereto, or veterans' home established pursuant to K.S.A. 76-1951 et seq., and amendments thereto.

(d) To protect the private property rights of all persons who own bars and retail tobacco stores in this state, the state of Kansas finds and determines a single statewide standard for smoking in enclosed areas that are also public places to be a matter of statewide concern. It is declared that this section preempts all municipal and county laws, charters, ordinances and rules and regulations relating to smoking in the locations set forth in subsection (b).

(e) Notwithstanding any other provision of this section, an owner, operator, manager or other person or entity in control of an establishment, facility or outdoor area may declare that entire establishment, facility or outdoor area as a nonsmoking place.

(f) Posting of signs and ashtray removal:

(1) "No smoking" signs or the international "no smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, no smaller than 6 inches by 6 inches, shall be clearly and conspicuously posted by the owner, operator, manager or other person in control of that place identifying where smoking is prohibited by this section and where complaints regarding violations may be registered;

(2) every public place and place of employment where smoking is prohibited by this section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited;

(3) all ashtrays shall be removed from any premise where smoking is prohibited by this section by the owner, operator, manager or other person having control of the area; and

(4) restaurants which are designated as totally smoking as provided in subsection (c)(11) shall be conspicuously posted on the outside of the business "This business is a totally smoking facility. Persons under 18 years of age are prohibited. Persons entering are advised that smoking is permitted at all locations in this facility".

(g) No employer may discharge or retaliate against an employee because that employee exercised any rights afforded by this section or reports or attempts to prosecute a violation of this section.

(h) An owner, manager, operator or employee of a place regulated by this section shall inform any person who is smoking in violation of this section that smoking is not allowed and request that the person stop smoking immediately.

(i) This section does not create any new private right of action nor does it extinguish any existing common law causes of action.

(j) Any person found guilty of smoking in violation of this section is guilty of a misdemeanor punishable by a fine of not less than \$50 and not more than \$300 for each violation. Any person found guilty of failing to post signs as required by this act, is guilty of a misdemeanor punishable by a fine of not more than \$50. In addition, the department of health and environment, or local department of health, may institute an action in any court of competent jurisdiction to enjoin repeated violations of this act.

(k) If any provision of this section or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions of application of this section that can be given effect without the invalid provision or application, and to this end the provisions of the section are declared to be severable.

(l) If a city or county currently regulates smoking within its boundaries, such local regulation shall control to the extent of any inconsistency between such regulation and this section.";

On page 14, in line 21, preceding "K.S.A." by inserting "K.S.A. 21-4009, 21-4010, 21-4011, 21-4012, 21-4013 and 21-4014 and"; by striking all in lines 23 through 25;

And by renumbering sections accordingly;

In the title, in line 14, by striking "concerning crimes and punishments;"; in line 15, by striking all following "amending"; in line 16, by striking all preceding "K.S.A"; in line 17, by striking "21-4016 and 21-"; in line 18, by striking "4017" and inserting "21-4009, 21-4010, 21-4011, 21-4012, 21-4013 and 21-4014"

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

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

Yeas: Abrams, Brownlee, Bruce, Huelskamp, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Taddiken, Wagle.

Nays: Apple, Barnett, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Donovan.

Absent or Not Voting: Steineger.

The motion failed and the amendment was rejected.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and **HB 2221; HCR 5015** were advanced to Final Action and roll call.

HB 2221, An act concerning crimes and punishments; relating to smoking and cigarette sales; amending K.S.A. 21-3105, 21-4009, 21-4010, 21-4011, 21-4012 and 65-530 and K.S.A. 2008 Supp. 79-3301 and 79-3321 and repealing the existing sections; also repealing K.S.A. 21- 4016 and 21-4017.

On roll call, the vote was: Yeas 25, Nays 15, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Kelly, Kelsey, Kultala, Lee, Lynn, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Apple, Brownlee, Bruce, Holland, Huelskamp, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger, Taddiken, Wagle.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: **HB 2221** represents an increased willingness on behalf of this body to subvert the property rights of individuals and undermine the lawful authority of local office holders to implement policy that addresses the needs of their respective localities.

During the heat of debate a great deal of rhetoric was exchanged questioning the motives of proponents and opponents alike. This rhetoric focused on the apparent inconsistencies within the bill itself as proof of some implied misdeeds.

These inconsistencies are brought about not by some sinister motive but as a reflection of an unavoidable conclusion; this body is attempting to legislate something that cannot be codified into a statewide policy. As an unintended consequence, we do not so much create policy, as we select winners and losers.

The legislature has no business acting in an area where it has no compelling interest at stake. If any action is required, it ought to be done by localities, which are in a far superior position to craft any necessary ordinances to meet the real, and not speculative, needs of their constituencies. The legislature, on the other hand, ought to exercise better discretion by ignoring legislation that is fueled by political correctness and erodes the principles of limited governance.—TERRY BRUCE

Senators Ostmeyer and Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Bruce on **HB 2221.**

MR. PRESIDENT: I vote aye on **HB 2221** and would like to explain my vote. In past years, I have always generally supported local government initiatives when deciding an issue that affects as many local businesses as the smoking ban. After being assigned to social and rehabilitation services, I quickly discovered that approximately 350,000 individuals in a state with a 2.7 million population are on the state's system either through Medicaid or waivers.

This year we are making significant cuts to our budget. We must begin to change how we do business and promote preventive policies that decrease the cost our state incurs in supplying needed human services to our constituency.

In beginning this process an effort was made to keep the bill as it came out of committee, which I supported. I was disappointed in the amendment process when some voted to allow smoking in casinos but yet restrict it for other private businesses.—CAROLYN MCGINN

HCR 5015, A concurrent resolution directing the State Board of Education to take certain actions in relation to children with reading problems, including dyslexia.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The resolution was adopted.

MESSAGE FROM THE HOUSE

The House nonconcurs in Senate amendments to **HB 2097**, requests a conference and appoints Representatives Colloton, Patton and McCray-Miller as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 51** and has appointed Representatives Schwartz, Kinzer and Svaty as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 254** and has appointed Representatives Schwartz, M. Holmes and Garcia as conferees on the part of the House.

On motion of Senator D. Schmidt, the Senate recessed until 3:00 p.m.

AFTERNOON SESSION

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

CHANGE OF REFERENCE

The President withdrew **HB 2130** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on **Transportation**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Brungardt moved the Senate concur in house amendments to SB 29.

SB 29, An act concerning the state board of technical professions; relating to licensure; amending K.S.A. 74-7003, 74-7009, 74-7013, 74-7018, 74-7021, 74-7022, 74-7023, 74-7025, 74-7026, 74-7029, 74-7031, 74-7034, 74-7036 and 74-7041 and repealing the existing sections; also repealing K.S.A. 74-7043, 74-7044 and 74-7045.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Pyle.

The Senate concurred.

Senator Brungardt moved the Senate concur in house amendments to SB 53.

SB 53, An act concerning cereal malt beverages; relating to discretion by cities in granting and suspending or revoking a retailer's license; amending K.S.A. 2008 Supp. 41-2703 and 41-2708 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, PilcherCook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

Senator Apple moved the Senate concur in house amendments to SB 80.

SB 80, An act concerning cities; dealing with certain elections; relating to cities' power to relinquish authority to regulate natural gas and water utilities to the state corporation commission; amending K.S.A. 15-809 and 66-104e and repealing the existing sections.

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

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Faust-Goudeau, Haley.

The Senate concurred.

Senator Reitz moved the Senate concur in house amendments to H Sub for SB 91.

H Sub for SB 91, An act concerning community planning; relating to placement of sexually violent predators; zoning; dealing with vesting of development rights; amending K.S.A. 12-764 and K.S.A. 2008 Supp. 59-29all and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

Senator Owens moved the Senate concur in house amendments to SB 237.

SB 237, An act concerning crimes, punishment and criminal procedure; amending K.S.A. 21-3826 and K.S.A. 2008 Supp. 50-6,109, 50-6,110, 50-6,111 and 50-6,112 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

Senator Teichman moved the Senate concur in house amendments to SB 275.

SB 275, An act concerning vehicles; relating to implements of husbandry; concerning allterrain vehicles; amending K.S.A. 84-2a-104 and K.S.A. 2008 Supp. 8-126, 8-197, 8-1402a and 84-9-311 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

ORIGINAL MOTION

On motion of Senator Owens, the Senate acceded to the request of the House for a conference on **S Sub for HB 2097**.

The President appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

On motion of Senator Reitz, the Senate acceded to the request of the House for a conference on **HB 2155**.

The President appointed Senators Reitz, Wagle and Kultala as conferees on the part of the Senate.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2096**, submits the following report:

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

On page 1, after line 25, by inserting the following:

"(3) review proposals related to driving under the influence introduced in the 2009 legislative session;

(4) review other subjects related to driving under the influence referred to the commission by the chairperson of the standing senate committee on judiciary, house committee on judiciary or house committee on corrections and juvenile justice;";

And by renumbering the remaining paragraphs accordingly;

Also on page 1, in line 43, by striking all after "(3)";

On page 2, in line 1 by striking all before the semicolon and inserting "the ranking minority member of the standing committee on judiciary of the house of representatives;

(4) the ranking minority member of the standing committee on judiciary of the senate"; And by renumbering the remaining paragraphs accordingly;

Also on page 2, in line 2, by striking ", a district magistrate judge";

On page 26, in line 16, before the period, by inserting "or first appearance, whichever occurs first";

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

THOMAS C. OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate

PAT COLLOTON JOE PATTON MELODY MCCRAY-MILLER Conferees on part of House

Senator Owens moved the Senate adopt the Conference Committee Report on S Sub for HB 2096.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2131**, submits the following report:

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

On page 1, by striking all in lines 16 through 43;

By striking all on pages 2 and 3 and inserting the following:

"Section 1. The secretary of transportation is hereby authorized to establish an intermodal transportation revolving fund to provide assistance to governmental units for intermodal transportation projects.

Sec. 2. As used in sections 1 through 7, and amendments thereto:

(a) "Cost" means as applied to any qualified project, any or all costs, whenever incurred, approved by the department, for carrying out a qualified project;

(b) "department" means the department of transportation, established under K.S.A. 75-5001, and amendments thereto;

(c) "fund" means the Kansas intermodal transportation revolving fund established by section 4, and amendments thereto;

(d) "governmental unit" means any town, city, district, county, commission, agency, authority, board or other instrumentality of the state or of any of its political subdivisions, including any combination thereof, which has a qualified project located within the boundaries of such entity or within the jurisdiction of such entity;

(e) "intermodal facility" means land, improvements, personal property and fixtures developed primarily to handle the transfer, storage and distribution of freight through railway and trucking operations with a cost in excess of \$150,000,000;

(f) "intermodal transportation area" means an area including an intermodal facility and such additional area certified by the secretary to be impacted by such intermodal facility;

(g) "intermodal transportation project" means any bridge, culvert, highway, road, street, underpass, railroad crossing or combination thereof located within an intermodal transportation area;

(h) "private enterprise" means a private person or entity that has entered into a contract with a governmental unit to design, finance, construct or operate a qualified project that is within the jurisdiction of such public authority;

(i) "project" means the acquisition, construction, improvement, repair, rehabilitation, maintenance or extension of transportation facilities;

(j) "project costs" means all costs or expenses which are necessary or incident to a qualified project and which are directly attributable thereto, including, but not limited to, land acquisition;

(k) "qualified borrower" means any governmental unit or private enterprise which is authorized to construct, operate or own a qualified project;

(l) "qualified project" means any public or private intermodal transportation project, including, without limitation, the construction, reconstruction, resurfacing, restoration, rehabilitation or replacement of public or private intermodal transportation projects within the state, that is determined by the secretary to be of statewide as well as local importance and by the city or county in which the qualified project is located to be of local importance;

(m) "revenues" means when used with respect to the department, any receipts, fees, revenues or other payments received or to be received by the department under sections 1 through 7, and amendments thereto; and

(n) "secretary" means the secretary of the department of transportation.

Sec. 3. (a) The secretary shall administer the provisions of sections 1 through 7, and amendments thereto, and shall be responsible for the administration and management of the fund, and shall have the power to enter into agreements and contracts and to transfer money between the state highway fund and the fund as required to effect the purposes of sections 1 through 7, and amendments thereto.

(b) The secretary shall adopt rules and regulations, to carry out the purposes and provisions of sections 1 through 7, and amendments thereto.

Sec. 4. (a) There is hereby established in the state treasury a fund to be known as the Kansas intermodal transportation revolving fund which shall consist of the following:

(1) Amounts appropriated or otherwise made available by the legislature for the purposes of the fund;

(2) the proceeds, if any, from the sale of bonds issued pursuant to section 5, and amendments thereto, for the purposes of the fund to the extent provided in any agreement entered into between the secretary and the Kansas development finance authority;

(3) amounts of repayments made by qualified borrowers of loans received under sections 1 through 7, and amendments thereto, together with payments of interest thereon, in accordance with agreements entered into between such qualified borrowers and the secretary;

(4) amounts earned on moneys in the fund;

(5) amounts contributed or otherwise made available by any public or private entity for use in effectuating the purposes of the fund;

(6) amounts transferred by order of the secretary from the state highway fund; and

(7) any other amounts as may be made available for purposes of the fund.

(b) Subject to the provisions of sections 1 through 7, and amendments thereto, expenditures from the fund shall be made for the following purposes:

(1) For the payment of the principal, including sinking fund payments of and premium, if any, and interest on bonds issued pursuant to sections 1 through 7, and amendments thereto;

(2) for providing financial assistance to qualified borrowers to finance qualified projects;

(3) for the maintenance of, or provision for, any reserves, additional security, insurance or other form of credit enhancement to secure such bonds required or provided for in any trust agreement entered into pursuant to sections 1 through 7, and amendments thereto;

(4) to guarantee, purchase insurance or provide other credit enhancement for bonds of qualified borrowers issued to finance the costs of qualified projects;

(5) to provide reserves for or otherwise secure bonds issued pursuant to sections 1 through 7, and amendments thereto, and to provide insurance or other credit enhancement for such bonds;

(6) to provide reserves for, or to otherwise secure, amounts payable by qualified borrowers on loans made by and leases with the department in the event of default by a particular qualified borrower or, on a parity basis, by any qualified borrower;

(7) to provide a subsidy for, or to otherwise assist, qualified borrowers in the payment of debt service costs on loans made by the department hereunder;

(8) for administrative costs of the fund or for any of the foregoing;

(9) the transfer of money by order of the secretary to the state highway fund; and

(10) the transfer of money by order of the secretary to the state general fund.

Sec. 5. (a) The activities of the department in administering and performing the powers, duties and functions prescribed by the provisions of sections 1 through 7, and amendments thereto, are hereby approved for the purposes of subsection (b) of K.S.A. 74-8905, and amendments thereto, and the authorization of issuance of bonds by the Kanasa development finance authority in accordance with that statute. The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds for such purposes when so authorized and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto.

(b) The debt service for any bonds issued pursuant to this section shall be paid from revenues, including loan repayments received from qualified borrowers under agreements entered into pursuant to sections 1 through 7, and amendments thereto, or from any other amounts available in the Kansas intermodal transportation revolving fund pursuant to section 4, and amendments thereto, including appropriations of moneys from the state general fund.

(c) Neither the state nor the department shall have the power to pledge the full faith and credit or taxing power of the state of Kansas for such purposes and any payment by the department for such purpose shall be subject to and dependent on appropriations by the legislature. Any obligation of the state or the department for payment of debt service on bonds issued pursuant to this section shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the Kansas constitution.

(d) No governmental unit is authorized to pledge its full faith and credit or its taxing power for the purpose of repayment of any loan under this act.

Sec. 6. (a) Qualified borrowers which desire assistance in the form of a loan, credit enhancement or grant under sections 1 through 7, and amendments thereto, shall submit an application therefor to the secretary. Applications shall be in such form and shall include such information as the secretary shall require and shall be submitted in a manner and at a time to be determined by the secretary.

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(b) The secretary may enter into agreements with any qualified borrower for payment of all or a part of project costs. All moneys received by the secretary pursuant to such agreements shall be deposited in the Kansas intermodal transportation revolving fund.

(c) The secretary shall provide any governmental unit, upon its request, with technical advice and assistance regarding a project or an application for assistance. The secretary may assess reasonable fees for providing such assistance.

(d) Any governmental unit may enter into agreements with the secretary and may accept assistance as provided in this section when so authorized by its governing body.

Sec. 7. (a) Upon the failure of a governmental unit to meet the repayment terms and conditions of an agreement, the secretary may order the state treasurer to pay to the fund such portion of the governmental unit's share of the special city and county highway fund as may be necessary to meet the terms of the agreement. This subsection shall not apply if the source of repayment of a loan with a governmental unit, as identified in the agreement, is not received by such governmental unit prior to the loan repayment date.

(b) Any loans received by a governmental unit under the provisions of sections 1 through 7, and amendments thereto, shall be construed to be bonds for the purposes of K.S.A. 10-1116, and amendments thereto, and the amount of such loans shall not be included within any limitation on the bonded indebtedness of the governmental unit.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.";

In the title, by striking all in lines 10 through 13 and inserting the following:

"AN ACT concerning transportation; relating to intermodal transportation projects, and providing for the financing thereof.";

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

DWAYNE UMBARGER BOB MARSHALL KELLY KULTALA Conferees on part of Senate

GARY K. HAYZLETT JENE VICKREY MARGARET LONG Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on ${\bf HB}$ 2131.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Pilcher-Cook, Pyle.

Present and Passing: Francisco.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2134**, submits the following report:

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

On page 1, following line 14, by inserting the following:

"New Section 1. (a) On and after January 1, 2010, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of not more than 20,000 pounds who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one support Kansas arts license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper regis-

tration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Kansas arts commission, created under K.S.A. 74-5202, and amendments thereto, may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment to such commission derived from this section shall be credited to the Kansas arts commission special gifts fund and, shall be used in accordance with the provisions of K.S.A. 74-5204, and amendments thereto. Any motor vehicle owner or lessee may annually apply to the commission for the use of such logo. Upon annual application and payment to the commission in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each license plate to be issued, the commission shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lesse at the time of registration.

(c) Any applicant for a support Kansas arts license plate may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of motor vehicles, and any applicant for the support Kansas arts license plates shall provide the annual logo use authorization statement provided for in subsection (b). Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

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

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

(f) The Kansas arts commission shall:

(1) Pay the initial cost of silk-screening for such support Kansas arts license plates; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the Kansas arts commission for information concerning the application process or the status of their license plate application.

(g) The Kansas arts commission, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

Sec. 2. K.S.A. 2008 Supp. 8-132 is hereby amended to read as follows: 8-132. (a) Subject to the provisions of this section and K.S.A. 8-1,125, and amendments thereto, the division of vehicles shall furnish to every owner whose vehicle shall be registered one license plate for such vehicle. Such license plate shall have displayed on it the registration number assigned to the vehicle and to the owner thereof, the name of the state, which may be abbreviated, and the year or years for which it is issued. The same type of license plates shall be issued for passenger motor vehicles, rented without a driver, as are issued for private passenger vehicles.

(b) During calendar year 1975 commencing on the effective date of this act, and during every fifth calendar year thereafter, the division of vehicles shall furnish one license plate for any type of vehicle an owner registers or has the registration thereof renewed, but during the succeeding four-year period following calendar year 1975 and during the succeeding four-year period following every fifth calendar year subsequent to 1975, the division of vehicles shall not furnish any license plate for the renewal of a vehicle's registration. During calendar year 1976 and during each calendar year thereafter in which a license plate is not issued for the renewal of registration of a vehicle, the division of vehicles shall furnish one decal for the license plate issued for a vehicle as provided in K.S.A. 8-134, and amendments thereto, for each registration and renewal of registration of such vehicle. Notwithstanding

the foregoing provisions of this subsection, whenever, in the discretion of the director of vehicles, it is determined that the license plates currently being issued and displayed are not deteriorating to the extent that their replacement is warranted, the director may adopt rules and regulations to extend the five-year issuance cycle provided for in this subsection by one year at a time, and in the same manner the director may further extend such cycle by one year at a time, successively as the director determines appropriate. If the cycle is extended at the expiration of the extended term, new license plates shall again be issued in the manner and for the term provided in such rules and regulations, except that the owner of a motor vehicle currently registered may continue to display the license plate currently being issued and displayed for a period not to exceed three registration years from the date of the expiration of the extended term. The division shall furnish one decal for each such license plate in accordance with the provisions *of* this subsection.

(c) Two personalized license plates may be issued to any owner or lessee of a passenger vehicle or a truck licensed for a gross weight of not more than 20,000 pounds, who makes proper application to the division of vehicles not less than 60 days prior to such owner's or lessee's renewal of registration date. Such application shall be on a form prescribed by the division and accompanied by a fee of \$40, which shall be in addition to any other fee required to renew the registration of such passenger vehicle under the laws of this state. One such personalized license plate shall be displayed on the rear of the vehicle and, at the option of the owner or lessee, the other license plate may be displayed on the front of the vehicle, except that no registration decal shall be issued pursuant to K.S.A. 8-134, and amendments thereto, for any such license plate displayed on the front of such vehicle. One personalized license plate may be issued to any owner of a motorcycle upon proper application in the same manner provided in this subsection (c) for passenger vehicles and trucks. The \$40 fee shall be paid only once during the registration period for which such license plates were issued, and any subsequent renewals during the registration period shall be subject only to the registration fee prescribed by K.S.A. 8-143, and amendments thereto. The division shall design distinctive, personalized license plates to be issued which shall contain not more than seven letters or numbers on truck or passenger vehicle license plates and not more than five letters or numbers on motorcycle license plates, or a combination thereof, to be designated by the applicant in lieu of the letters and numbers required by K.S.A. 8-147, and amendments thereto, other than the letters required to designate the county in which such vehicle is registered. Unless the letters or numbers designated by the applicant have been assigned to another vehicle of the same type registered in the same county, or unless the letters or numbers designated by the applicant have a profane, vulgar, lewd or indecent meaning or connotation, as determined by the director of vehicles, the division shall assign such letters or numbers to the applicant's vehicle, and the letters or numbers, or combination thereof, so assigned shall be deemed the registration number of such vehicle. Subject to the foregoing provisions, all license plates issued under this section shall be manufactured in accordance with K.S.A. 8-147, and amendments thereto. Such license plates shall be issued for a registration period of five years commencing in 1985 and each five years thereafter.

The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions of this act, including, without limitation, rules and regulations concerning (1) the procedure for insuring that duplicate license plates are not issued in the same county *throughout the state*, (2) the procedure for reserving distinctive license plates for the purpose of obtaining the same on each annual renewal of registration, (3) the procedure for allowing the transfer of personalized license plates from one vehicle to another for which such license plates were originally issued, when the title to the original vehicle has not been transferred and the name or names of the owner or owners listed on the titles to both vehicles are identical, and (4) procedures necessary to coordinate this act with other laws of this state governing registration of vehicles. The director of vehicles shall remit all moneys received by the division of vehicles under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasury to the credit of the state treasure the advector of the state treasure to the state treasure to the credit of the state treasu

Sec. 3. K.S.A. 8-160 is hereby amended to read as follows: 8-160. As used in this act, the term "disabled veteran" means a person who has served in the armed forces of the

United States and who is entitled to compensation for a one hundred percent (100%) disability under service-connected disability of at least 50% and the laws administered by the veterans administration or who is entitled to compensation for the loss, or permanent loss of use, of one or both feet or one or both hands, or for permanent visual impairment of both eyes to a prescribed degree.";

And by renumbering remaining sections accordingly;

Also on page 1, in line 29, by striking "or 8-1,158" and inserting ", 8-1,158 or section 1"; in line 35, by striking all following "received"; by striking all in lines 36 through 38; in line 39, by striking all preceding the period and inserting "not less than 1,000 orders for such plate, including payment of the personalized license plate fee required under subsection (a). Upon certification by the director of vehicles to the director of accounts and reports that not less than 1,000 paid orders for such plate have been received, the director of accounts and reports shall transfer \$40,000 from the state highway fund to the distinctive license plate fund";

On page 2, by striking all in line 30 and inserting the following:

"Sec. 5. K.S.A. 8-160 and K.S.A. 2008 Supp. 8-132 and 8-1,141 are hereby repealed."; In the title, in line 10, by striking "distinctive"; in line 11, following "amending" by inserting "K.S.A. 8-160 and"; also in line 11, following "Supp." by inserting "8-132 and"; in line 12, by striking "section" and inserting "sections";

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

DWAYNE UMBARGER BOB MARSHALL KELLY KULTALA Conferees on part of Senate

GARY K. HAYZLETT JENE VICKREY MARGARET LONG Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on HB 2134.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Emler.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2152**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

DWAYNE UMBARGER BOB MARSHALL KELLY KULTALA Conferees on part of Senate

GARY K. HAYZLETT JENE VICKREY Conferees on part of House On motion of Senator Umbarger, the Senate adopted the conference committee report on **HB 2152**, and requested a new conference committee be appointed.

The President appointed Senators Umbarger, Marshall and Kultala as a second Conference Committee on the part of the Senate on **HB 2152**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Vratil, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, and Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1869-

A RESOLUTION congratulating the Kansas Medical Society on its 150th anniversary.

WHEREAS, The Kansas Medical Society was granted a charter of incorporation by the Territorial Legislature on February 10, 1859; and

WHEREAS, The Kansas Medical Society is the oldest corporation in continuous existence in the State of Kansas; and

WHEREAS, The first Governor, Lieutenant Governor and Secretary of State of the new State of Kansas in 1861 were all physicians and incorporators of the Kansas Medical Society; and

WHEREAS, The Kansas Medical Society has benefitted the citizens of our state through a long history of effective advocacy for high standards of medical practice and sound health policy development; and

WHEREAS, The Kansas Medical Society will commemorate its sesquicentennial year at its annual membership meeting May 1-3, 2009, in Topeka: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Kansas Medical Society on its 150 years of advocacy and service to the physicians of the state; and

Be it further resolved: That the Secretary of the Senate be directed to provide two enrolled copies of this resolution to the Kansas Medical Society.

On emergency motion of Senator Vratil SR 1869 was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **HB 2085**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2085," as follows:

"SENATE Substitute for HOUSE BILL No. 2085

By Committee on Federal and State Affairs

"AN ACT concerning solid waste; relating to management plans; relating to the waste tire management fund; amending K.S.A. 2008 Supp. 65-3410 and 65-3424g and repealing the existing sections.";

and the substitute bill be passed.

Also, **HB 2267** be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2267," as follows:

"SENATE Substitute for HOUSE BILL No. 2267

By Committee on Federal and State Affairs

"AN ACT concerning certain boards, commissions and officers; relating to the appointment thereof; amending K.S.A. 2008 Supp. 75-712 and 75-4315d and repealing the existing sections.";

and the substitute bill be passed.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Wednesday, April 1, 2009.

Journal of the Senate

FIFTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, April 1, 2009—9:30 a.m.

The Senate was called to order by Vice President John Vratil. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

> Heavenly Father, Suppose We got word from Washington, From those who over us rule, Our economy is not in trouble, It's just April Fool!

The Dow Jones is 14,000, And everything is cool; There is no need for stimulus, All was April Fool!

As far as Kansas is concerned, There's news to make us drool; *Raise* the budget by 10%! It was just April Fool!

Unemployment's just 2%, Increase the budget for the schools. Everything is looking up! It was just April Fool!

But I seem to hear from you, O God, That if everything was great There'd be no need for any of us, *Anyone* could run the state!

The voters elected the people Whom they believe we need To make the hard decisions, And In tough times still succeed.

We need to be reminded, Lord, Tough times may make us bleed, But tough times develop tough love And prepare us to succeed.

And for that I thank You in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

POINT OF PERSONAL PRIVILEGE

Senator Marshall rose on a point of personal privilege to introduce Ashley Elnicki, Venessa Lee, Emily Walters, Eddie Penner, Jacob Dvorak and Katie Engelland, who were guests representing Pittsburg State University involved in student government.

MESSAGE FROM THE HOUSE

Announcing passage of Substitute HB 2365.

The House adopts the conference committee report on SB 45.

The House adopts the conference committee report on Senate Substitute for HB 2354.

The House nonconcurs in Senate amendments to **HB 2308**, requests a conference and appoints Representatives Neufeld, Kiegerl and Loganbill as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on SB 66 and has appointed Representatives Kinzer, Whitham and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 91** and has appointed Representatives Brunk, Grange and Ruiz as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 212** and has appointed Representatives Neufeld, Kiegerl and Loganbill as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on $SB\ 225$ and has appointed Representatives Huntington, Rhoades and Mah as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

Substitute HB 2365 was thereupon introduced and read by title.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 45**, 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 amendments, as follows:

On page 1, after line 15, by inserting the following:

"Section 1. K.S.A. 53-509 is hereby amended to read as follows: 53-509. The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by subsection (a) of K.S.A. 53-508:

(a) For an acknowledgment in an individual capacity:

State of ______(County) of ______

This instrument was acknowledged before me on <u>(date)</u> by <u>[name(s) of person(s)]</u>

(Seal, if any)

(Signature of notarial officer)

Title (and Rank)

[My appointment expires: ____]

(b) For an acknowledgment in a representative capacity:

State of ______ (County) of _____

This instrument was acknowledged before me on <u>(date)</u> by <u>[name(s) of person(s)]</u> as (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed.)

(Seal, if any)	(Signature of notarial officer)
5.4	Title (and Rank)
	appointment expires:
(c) For a verification upon oath or affirmation:	
State of) County) of)	
Signed and sworn to (or affirmed) before me on	(date) by [name(s) of person(s)]
naking statement].	(unit) by
Seal, if any)	(Signature of notarial officer)
	Title (and Rank)
[M _M	appointment expires:
(d) For witnessing or attesting a signature:	appointment expires.
State of) (County) of)	
Signed or attested before me on <u>(date)</u> by	[name(s) of person(s)]
,	
Cool :f array	(Signature of notarial officer)
Seal, if any)	
	Title (and Rank)
[My	appointment expires:
(e) For attestation of a copy of a document:	
State of) (County) of)	
I certify that this is a true and correct copy of a doo	cument in the possession of
	L
Dated:	
(Seal, if any)	(Signature of notarial officer)
ocal, if any	
	Title (and Rank)
[My	appointment expires:
(f) For power of attorney in a representative capaci	ty:
State of)	5
State of) (County) of)	
This instrument was signed before me on <u>(date)</u>	_ by [name(s) of designee(s)]
is (power of attorney) of (name of party on behalf of a	whom instrument was executed.)
	(Signature of notarial officer)
(Seal, if any)	(Signature of notarial officer)
· J · J/	
	Title (and Rank)
	ppointment expires:]
And by renumbering the remaining sections accord On page 6, in line 27, after "K.S.A" by inserting "5	ingly; 3-509,";

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April 1, 2009

In the title, in line 12, after "K.S.A." by inserting "53-509,"; And your committee on conference recommends the adoption of this report.

> LANCE KINZER JEFF WHITHAM JANICE L. PAULS Conferees on part of House

THOMAS C. OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate

Senator Owens moved the Senate adopt the Conference Committee Report on SB 45.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Conference Committee report was adopted.

COMMITTEE OF THE WHOLE

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

On motion of Senator Petersen the following report was adopted:

The committee report on **HB 2085** recommending a **S Sub for HB 2085** be adopted, and the substitute bill be passed.

S Sub for HB 2267 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Wysong, on page 4, by striking all in line 22 and inserting the following:

"Sec. 3. K.S.A. 2008 Supp. 74-99e02 is hereby amended to read as follows: 74-99e02. (a) There is hereby established a body politic and corporate to be known as the Kansas commission on rural policy. The commission shall be an independent instrumentality of the state. The exercise by the commission of the powers conferred by this act shall be deemed and held to be the performance of an essential governmental function.

(b) (1) The Kansas commission on rural policy shall be governed by a board of directors consisting *consist* of 12 members.

(2) Nine members of the board of directors commission shall be voting members appointed as follows: Three shall be appointed by the governor, two shall be appointed by the speaker of the house of representatives, two shall be appointed by the president of the senate, one shall be appointed by the minority leader of the house of representatives and one shall be appointed by the minority leader of the senate. Each member appointed to the board of directors person appointed to the commission shall be recognized for outstanding knowledge and leadership in one of the following business sectors or key areas:

(A) Agriculture;

(B) oil and gas;

(C) aviation;

(D) finance and banking;

(E) tourism;

(F) any other primary, job creating, value added business sector;

(G) fostering leadership;

(H) encouraging wealth retention and generation;

 $(I) \ developing \ entrepreneurship; \\$

(J) retaining youth in rural communities; and

(K) health care.

(3) All voting members appointed to the board shall be subject to senate confirmation as provided in K.S.A. 75-4315b, and amendments thereto. Any voting member appointed to the board whose nomination is subject to confirmation during a regular session of the legislature shall be deemed terminated when the senate rejects the nomination. No such termination shall affect the validity of any action taken by such member of the board before such termination.

(4) The terms of the nine voting members first appointed to the board of directors shall be as follows. Four years for members appointed by the governor, three years for members appointed by the speaker of the house of representatives and the president of the senate and two years for members appointed by the minority leader of the house of representatives and the minority leader of the senate. Members of the first board shall be appointed by September 1, 2008. Subsequent terms of all voting members appointed to the board shall be for four years.

(3) (A) Except as provided by paragraph (B) for members first appointed to the commission, voting members shall be appointed for terms of four years and until a successor is appointed and qualified.

(B) The terms of the voting members first appointed to the commission shall expire as follows: The terms of members appointed by the governor shall expire on June 30, 2012; the terms of members appointed by the president and minority leader of the senate shall expire on June 30, 2011; and the terms of members appointed by the speaker and minority leader of the house of representatives shall expire on June 30, 2010.

(5) (4) The other three members of the board of directors commission shall serve ex officio: The secretary of commerce, the secretary of agriculture and the president of Kansas, Inc. Each ex officio member of the commission may designate an officer or employee of the state agency or organization of the ex officio member to serve on the commission in place of the conficio member. The ex officio members of the commission, or their designees, shall be nonvoting members of the commission and shall provide information and advice to the commission.

(c) The Kansas commission on rural policy board of directors commission shall elect annually from among its voting members a chairperson, vice-chairperson and secretary. Five voting members of the board commission shall constitute a quorum and the affirmative vote of five members shall be necessary for any action taken by the board commission. No vacancy in the membership of the board commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the board commission.

(d) Members of the commission attending any meeting of the commission or any subcommittee meeting authorized by the commission shall be paid amounts as provided in K.S.A. 75-3223, and amendments thereto.

(e) All resolutions and orders of the Kansas commission on rural policy board of directors *commission* shall be recorded and authenticated by the signature of the secretary or a person designated by the secretary. The book of resolutions, orders, minutes of open meetings, annual reports and annual financial statements of the commission shall be public records as defined by K.S.A. 45-215 et seq., and amendments thereto. All public records shall be subject to regular audit as provided in K.S.A. 46-1106, and amendments thereto.

(f) The commission is hereby authorized to engage legal counsel, expert advisers or executive staff to carry out the duties of the commission. Compensation for such counsel, advisers or staff shall be determined by the commission within the limits of available funds.

(g) The commission is hereby authorized to accept grants, gifts, bequests and other financial or in-kind contributions.

(h) To facilitate the organization and start-up of the commission, the department of commerce shall provide administrative assistance until such time as the commission has resources to provide staffing on its own. In no event shall such assistance continue beyond September 1, 2010.

Sec. 4. K.S.A. 2008 Supp. 74-99e03 is hereby amended to read as follows: 74-99e03. (a) The Kansas commission on rural policy shall develop recommendations for communitybased programming and funding in the following key areas: Fostering leadership; encouraging wealth retention and generation; developing entrepreneurship through the coordination of existing programs; and retaining youth in rural communities. The commission shall not compete with, duplicate or assume the responsibilities or functions of existing federal or state funded programs and organizations, in delivering services related to the above key areas, but will design, collaborate with and optimize the activities of such other agencies in a comprehensive effort.

(b) Prior to July 1, 2009 2010, the commission shall perform the following:

(1) Develop a comprehensive plan for fulfillment of the commission's duties, including an evaluation of the current efforts being utilized to fulfill the commission's objectives, and report on the best practices currently being conducted and on the commission's activities to the legislature during the $\frac{2009}{2010}$ legislative session;

(2) develop partnerships with other organizations to offer technical assistance to rural communities seeking programming assistance; and

(3) develop partnerships with private organizations and institutions engaged in rural development strategies to identify best practices and make those resources available to rural communities through a centralized point of contact.

(c) In addition to the duties set forth in subsection (b), the commission, once appointed and confirmed, shall perform the following:

(1) Develop on-the-ground resources for rural communities utilizing existing resources and partnerships or by developing new efforts and strategies;

(2) act in concert with contracting organizations to develop fundamental capacity building resources to assist communities in achieving growth using the key areas set forth in subsection (a);

(3) review rural development programs in other state agencies and provide strategic recommendations to such agencies *including*, *but not limited to*, *programs that promote new homestead opportunities for individuals*, *new incentives for businesses to expand or relocate and general business development*;

(4) serve as a convener of organizations engaged in activities focused on the key areas set forth in subsection (a) to develop unified recommendations for rural development efforts across the state;

(5) develop and recommend to the secretary of commerce a strategic mission for the office of rural opportunity;

(6) report annually to the legislature with each annual report to include a report on the activities of the commission, recommendations by the commission and suggestions for legislation.

Sec. 5. K.S.A. 2008 Supp. 74-99e04 is hereby amended to read as follows: 74-99e04. The provisions of K.S.A. 2008 Supp. 74-99e01 through 74-99e04, and amendments thereto, shall expire on July 1, 2011 2012.

Sec. 6. K.S.A. 2008 Supp. 74-99e02, 74-99e03, 74-99e04, 75-712 and 75-4315d are hereby repealed.";

And by renumbering the remaining section accordingly;

In the title, in line 12, after "Supp." by inserting "74-99e02, 74-99e03, 74-99e04,"

S Sub for HB 2267 be further amended by motion of Senator Brungardt, on page 1, in line 42, before the period by inserting "or as provided by K.S.A. 2008 Supp. 75-4315d, and amendments thereto";

On page 2, in line 2, by striking all after "qualifications"; in line 3, by striking all before the period

S Sub for HB 2267 be further amended by a second motion of Senator Brungardt, on page 1, after line 15, by inserting the following:

"Section 1. K.S.A. 22-4607 is hereby amended to read as follows: 22-4607. (a) A 15member task force on racial profiling shall be appointed by the governor. The task force shall include representatives of the Kansas attorney general's office, the Kansas highway patrol, city and county law enforcement agencies, the Hispanic and Latino American affairs commission, the advisory commission on African-American affairs, the department of revenue, Kansas human rights commission, Kansas district courts, Kansas civil rights advocates and others who can assist in the performance of the functions of the task force.

(b) The governor's task force on racial profiling shall work in partnership with local and state law enforcement agencies to review current policies and make recommendations for future policies and procedures statewide for the full implementation of the provisions of K.S.A. 22-4606 through 22-4611, and amendments thereto. The task force shall hold public hearings and meetings as needed to involve and inform the public on issues related to racial profiling.

(c) Members of the task force serving on the effective date of this act shall continue to serve terms until July 1, 2007. Thereafter, members shall be appointed for terms of two years. Vacancies shall be filled by appointment for the unexpired term. Upon expiration of a member's term, the member shall serve until a successor is appointed and qualifies. No member shall serve more than two consecutive full terms.

(d) The chairperson of the task force shall be designated by the governor. The task force shall meet at the call of the chairperson at least quarterly or as often as necessary to carry out the functions of the task force.

(e) The staff of the Kansas advisory commission on African-American affairs and the Kansas Hispanic/Latino American affairs commission shall provide administrative support to the task force and its chairperson.

(f) Members of the task force attending a meeting of the task force, or any subcommittee meeting authorized by the task force, shall receive amounts provided for in subsection (e) of K.S.A. 75-3223, and amendments thereto.

(g) The task force shall make a report of its activity to the public each calendar year.

(h) The provisions of this section shall expire on July 1, 2009 2011.

And by renumbering the remaining sections accordingly;

On page 4, in line 22, after "K.S.A" by inserting "22-4607 and K.S.A.";

On page 1, in the title, in line 12, after "amending" by inserting "K.S.A. 22-4607 and"

A motion by Senator Pyle to amend **S Sub for HB 2267** failed and the following amendment was rejected: on page 4, following line 21, by inserting:

"Sec. 3. Any governor resigning from such office shall file a written notice of such resignation in the office of the secretary of state. Such notice of resignation shall state the effective date of the resignation. Upon receiving such notice of resignation, the secretary of state shall notify the lieutenant governor.

Sec. 4. Any lieutenant governor resigning from such office shall file a written notice of such resignation in the office of the secretary of state. Such notice of resignation shall state the effective date of the resignation. Upon receiving such notice of resignation, the secretary of state shall notify the governor.

Sec. 5. Whenever the office of lieutenant governor becomes vacant as a result of the death, permanent disability or resignation of the lieutenant governor, a successor shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as lieutenant governor pursuant to this section shall exercise any power, duty or function as lieutenant governor until confirmed by the senate.";

And by renumbering sections accordingly;

In the title, in line 11, after "concerning", by inserting "the offices of governor and lieutenant governor and"

Upon the showing of 5 hands, a roll call vote was requested:

On roll call, the vote was: Yeas 20, Nays 20, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Taddiken, Wagle.

Nays: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, Morris, Owens, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wysong.

The motion failed and the amendment was rejected.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and **S Sub for HB 2085, S Sub for HB 2267** were advanced to Final Action and roll call.

S Sub for HB 2085, An act concerning solid waste; relating to management plans; relating to the waste tire management fund; amending K.S.A. 2008 Supp. 65-3410 and 65-3424g and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Pilcher-Cook.

The substitute bill passed.

S Sub for HB 2267, An act concerning certain boards, commissions and officers; relating to the appointment thereof; amending K.S.A. 22-4607 and K.S.A. 2008 Supp. 74-99e02, 74-99e03, 74-99e04, 75-712 and 75-4315d and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The substitute bill passed, as amended.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2121**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

MARK TADDIKEN RALPH OSTMEYER MARCI FRANCISCO Conferees on part of Senate

LARRY POWELL ROCKY FUND Conferees on part of House

On motion of Senator Taddiken, the Senate adopted the conference committee report on **HB 2121**, and requested a new conference committee be appointed.

The Vice President appointed Senators Taddiken, Ostmeyer and Francisco as a second Conference Committee on the part of the Senate on **HB 2121**.

REPORTS OF STANDING COMMITTEES

Committee on **Public Health and Welfare** begs leave to submit the following report: The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the President of the Senate:

Kansas Health Policy Authority: K.S.A. 2008 Supp. 75-7401

E. J. "Ned" Holland, Jr., term expires March 15, 2012

Joe Lee Tilghman, term expires March 15, 2012

By the Speaker of the House of Representatives:

Kansas Health Policy Authority: K.S.A. 2008 Supp. 75-7401

Garen Lorimer Cox, term expires March 15, 2012

Committee on Transportation recommends SCR 1617 be adopted.

REFERRED TO GENERAL ORDERS

Vice President Vratil referred **SCR 1617; HB 2130** to the calendar under the heading of General Orders.

On emergency motion of Senator D. Schmidt, **HB 2130** was moved to the top of the calendar under the heading of General Orders.

On emergency motion of Senator D. Schmidt, **SCR 1617** was moved to the top of the calendar under the heading of General Orders.

ORIGINAL MOTION

On motion of Senator Brumgardt, the Senate acceded to the request of the House for a conference on **HB 2308**.

The Vice President appointed Senators Brungardt, Reitz and Faust-Goudeau as conferees on the part of the Senate.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee Report to agree to disagree on **HB 2152** and has appointed Representatives Hayzlett, Vickrey and Long as second conferees on the part of the House.

The House not adopts the Conference Committee Report to agree to disagree on **SB** 171.

The House nonconcurs in Senate amendments to **HB 2162**, requests a conference and appoints Representatives Landwehr, Crum and Flaharty as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2221**, requests a conference and appoints Representatives Landwehr, Crum and Flaharty as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2324**, requests a conference and appoints Representatives Carlson, King and Menghini as conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Emler, the Senate acceded to the request of the House for a conference on $HB\ 2221$.

The President appointed Senators Barnett, V. Schmidt and Kelly as conferees on the part of the Senate.

On motion of Senator D. Schmidt, the Senate recessed until 3:00 p.m.

AFTERNOON SESSION

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

ORIGINAL MOTION

On motion of Senator Barnett, the Senate acceded to the request of the House for a conference on **HB 2162**.

The Vice President appointed Senators Barnett, V. Schmidt and Haley as conferees on the part of the Senate.

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **HB 2324**.

The Vice President appointed Senators Donovan, D. Schmidt and Holland as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Steineger, Morris and D. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1870-

A SENATE RESOLUTION commemorating the twentieth anniversary of the sister-state relationship between the State of Kansas and the Province of Taiwan, Republic of China.

WHEREAS, On November 14, 1989, the State of Kansas invited the Province of Taiwan, Republic of China to join the State of Kansas as a sister state to strengthen international understanding and goodwill and to establish a greater friendship between the residents of Kansas and Taiwan; and

WHEREAS, The Province of Taiwan has been a true friend and steadfast partner of the State of Kansas in an enduring sister-state relationship for 20 years; and

WHEREAS, Over the past 20 years, the bonds of friendship between Kansas and Taiwan have strengthened, resulting in a better economic, social and cultural exchange between the two; and

WHEREAS, Every other year, Taiwan has sent an Agriculture Trade Goodwill Mission to Kansas to demonstrate Taiwan's continuing goodwill and willingness to purchase Kansas agricultural products and the Kansas agricultural industry has benefitted greatly over the past two decades from the sale of wheat, corn and beef into Taiwan; and

WHEREAS, Beginning in 1989, every year over 400 students from Taiwan have studied at Kansas colleges and universities; and

WHEREAS, The commercial interaction between the State of Kansas and Taiwan has grown substantially with each passing year, resulting in increased economic growth for both Taiwan and Kansas; and

WHEREAS, Taiwan is the ninth largest trade partner of the United States, with over \$64.7 billion in two-way trade in 2007, and is a top foreign market for Kansas products: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we, on behalf of the people of the State of Kansas, do hereby express our sincere friendship and appreciation to the people of the Province of Taiwan, Republic of China for 20 years of enlightenment, friendship and mutual economic growth as our sister-state; and

Be it further resolved: That it is with great pride that the State of Kansas looks forward to many more rewarding years as a sister-state with the Province of Taiwan, Republic of China; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to the United States Secretary of State Hillary Clinton, U.S. Department of State, 2201 C Street NW, Washington, DC 20520; to Director General Dale W. Jieh, Taipei Economic and Cultural Office, 3100 Broadway, Suite 800, Kansas City, MO 64111; and to each member of the Kansas Congressional Delegation.

On emergency motion of Senator Steineger SR 1870 was adopted unanimously.

Senators Haley and Faust-Goudeau introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1871-

A RESOLUTION designating the month of April as Minority Health Awareness Month.

WHEREAS, The overall health and well-being of all Kansas citizens is important and is directly related to the quality of life of the citizens of this great state; and

WHEREAS, The rates of overweight and obese individuals has been increasing in the United States in recent years. Obesity increases an individual's risk of diabetes, heart disease, cancer and many other illnesses. In Kansas, the rate of obesity is 25% for whites, 30% for Hispanics and 40% for African Americans; and

WHEREAS, Despite the growing scientific evidence documenting the importance of fruits and vegetables to a healthy diet, four out of five Kansans, regardless of race and ethnicity, do not eat the daily recommended five servings of fruits and vegetables, underscoring the importance of raising awareness about healthy lifestyle choices; and

WHEREAS, Thousands of Kansas children, adults and elders suffer from poor health as a result of lack of access to appropriate health care because of race, ethnicity, cultural differences, gender, socioeconomic status, geographical location and disabilities; and WHEREAS, These health disparities are compounded by factors including poverty, health care provider shortages, patient health care preferences and lifestyle choices; and

WHEREAS, Activities such as research, improved public policy and appropriate legislation can help to remove health related barriers and disparities facing racial, ethnic and tribal populations and increase awareness of the importance of managing our health and wellbeing; and

WHEREAS, Regardless of race, age, gender, disability or socioeconomic status, all Kansans should have the opportunity to actively participate in the management of their personal health and well-being through proper nutrition, moderate exercise and regular health screenings: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we designate the month of April as Minority Health Awareness Month and that we urge all Kansans to join in this observance; and

Be it further resolved: That the Secretary of the Senate be directed to provide two enrolled copies of this resolution to Senator David Haley and two enrolled copies to Senator Oletha Faust-Goudeau.

On emergency motion of Senator Haley SR 1871 was adopted unanimously.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2126**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2126, as follows:

On page 2, by striking all in lines 3 through 43;

By striking all on pages 3 through 7;

On page 8, by striking all in lines 1 through 39;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 10, by striking all after "situations"; by striking all in lines 11 through 14; in line 15, by striking all before the period;

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

PAT APPLE MIKE PETERSEN JANIS K. LEE Conferees on part of Senate

CARL DEAN HOLMES FORREST KNOX ANNIE KUETHER Conferees on part of House

Senator Apple moved the Senate adopt the Conference Committee Report on **S Sub for HB 2126**.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2250**, submits the following report: The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee amendments, as follows:

On page 1, by striking all in lines 17 through 43;

By striking all on page 2;

On page 3, by striking all in lines 1 through 7 and inserting the following:

"Section 1. K.S.A. 17-1766 is hereby amended to read as follows: 17-1766. All solicitations by professional solicitors shall contain the following disclosures at the point of solicitation.

(a) The name, address and telephone number of the charitable organization;

(b) the registration number, obtained pursuant to K.S.A. 17-1763 for the charitable organization,

-(c) - if the solicitation is made by a person acting as a professional solicitor, the registration number obtained pursuant to K.S.A. 17-1765, and

(d) that an annual financial report required by K.S.A. 17-1763 for the preceding fiscal year is on file with the secretary of state: (a) Prior to verbally requesting a contribution, or contemporaneously with and accompanying a written request for a contribution, every professional solicitor shall affirmatively disclose the following at the point of solicitation:

(1) The fact that the solicitation is being made by a professional solicitor and not by an employee of the charitable organization on behalf of which the solicitation is being made;

(2) the name of the professional solicitor, the name of the professional fund raiser and the name of the charitable organization on behalf of which the solicitation is being made, all as registered with the secretary of state; and

(3) the fact that information about the professional solicitor, the professional fund raiser and the charitable organization are on file for public inspection with the secretary of state.

(b) In addition to the other requirements of this section, if the solicitation is written, the professional solicitor shall affirmatively disclose the following at the point and time of solicitation:

(1) The registration numbers obtained pursuant to K.S.A. 17-1763, 17-1764 and 17-1765, and amendments thereto;

(2) the address and telephone number of the charitable organization on behalf of which the solicitation is being made; and

(3) the fact that the charitable organization's most recent annual financial report required by K.S.A. 17-1763, and amendments thereto, is on file for public inspection with the secretary of state.

(c) In addition to the other requirements of this section, if the solicitation is verbal, the professional solicitor shall, if requested by the prospective contributor, disclose the following:

(1) The registration numbers obtained pursuant to K.S.A. 17-1763, 17-1764 and 17-1765, and amendments thereto;

(2) the address and telephone number of the charitable organization on behalf of which the solicitation is being made; and

(3) the fact that the charitable organization's most recent annual financial report required by K.S.A. 17-1763, and amendments thereto, is on file for public inspection with the secretary of state.

(d) In addition to the other requirements of this section, if requested by the prospective contributor, the professional solicitor shall disclose the amount of any contribution to be retained by the professional fund raiser. Such amount shall be calculated as follows:

(1) If the compensation paid to the professional fund raiser is contingent upon the number of contributions or the amount of revenue received from the solicitation campaign, the stated amount shall be expressed as a fixed percentage of gross revenue.

(2) If the compensation paid to the professional fund raiser is not contingent upon the number of contributions or the amount of revenue received, the stated amount shall be a reasonable estimate, expressed as a percentage of the gross revenue. The stated estimate, expressed as a percentage of gross revenue, shall be based upon all of the relevant facts known to the professional fund raiser regarding the solicitation to be conducted as well as the past performance of solicitations conducted by the professional fund raiser. The prospective donor shall be informed that the stated amount is an estimate.

Sec. 2. K.S.A. 17-1766 is hereby repealed.";

Also on page 3, in line 9, by striking "Kansas register" and inserting "statute book";

In the title, by striking all in lines 12 through 14 and inserting: "AN ACT amending the charitable organizations and solicitations act; concerning professional fund raisers; amending K.S.A. 17-1766 and repealing the existing section.";

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

THOMAS C. OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate

LANCE KINZER JEFF WHITHAM JANICE L. PAULS Conferees on part of House

Senator Owens moved the Senate adopt the Conference Committee Report on **HB 2250**. On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2292**, submits the following report:

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

On page 8, by striking all in lines 10 through 43;

By striking all on pages 9 through 27;

On page 28, by striking all in lines 1 through 37;

And by renumbering sections accordingly;

Also on page 28, in line 38, by striking all following "K.S.A."; by striking all in lines 39 and 40; in line 41, by striking all preceding "2008";

In the title, in line 15, by striking "concerning certain consumer loan services,"; in line 16, by striking all following "ing"; by striking all in lines 17 and 18; in line 19, by striking all preceding "K.S.A.";

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

RUTH TEICHMAN KARIN BROWNLEE CHRIS STEINEGER Conferees on part of Senate

ANTHONY BROWN RICHARD PROEHL ROBERT GRANT Conferees on part of House

Senator Teichman moved the Senate adopt the Conference Committee Report on ${\bf HB}$ 2292.

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

April 1, 2009

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.

The Conference Committee report was adopted.

COMMITTEE OF THE WHOLE

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

On motion of Senator Petersen the following report was adopted:

SCR 1617 be adopted.

WITHDREW FROM GENERAL ORDERS

The Vice President withdrew **HB 2130** from the calendar under the heading of General Orders and rereferred the bill to the Committee on **Transportation**.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and SCR 1617 was advanced to Final Action and roll call.

SCR 1617, A concurrent resolution recognizing the Kansas department of transportation, the Oklahoma department of transportation, the Texas department of transportation and Amtrak for their work in preparing an Amtrak, Kansas City - Wichita - Oklahoma City - Fort Worth Passenger Rail Feasibility Report and Study Scope and urging the Kansas department of transportation to apply for federal funding.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Pilcher-Cook, Pyle.

Absent or Not Voting: Wysong.

The resolution was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2172**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

LESLIE D. DONOVAN, SR. DEREK SCHMIDT TOM HOLLAND Conferees on part of Senate

RICHARD CARLSON JEFF KING Conferees on part of House

On motion of Senator Donovan, the Senate adopted the conference committee report on **HB 2172**, and requested a new conference committee be appointed.

The Vice President appointed Senators Donovan, D. Schmidt and Holland as a second Conference Committee on the part of the Senate on **HB 2172**.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to **HB 2308**, and requests return of the bill. The House adopts the conference committee report on **HB 2131**.

The House adopts the conference committee report on **HB 2134**.

The House adopts the conference committee report on **SB 11**.

The House adopts the conference committee report on SB 19.

The House adopts the conference committee report on SB 35.

The House adopts the conference committee report on SB 44.

The House adopts the conference committee report on SB 87.

The House adopts the conference committee report on SB 154

The House adopts the conference committee report on SB 225.

The House adopts the Conference Committee Report to agree to disagree on **HB 2121** and has appointed Representatives Powell, Fund and Svaty as second conferees on the part of the House.

The House reconsidered its earlier action and adopts the Conference Committee Report to agree to disagree on **SB 171** and has appointed Representatives Huebert, Schwab and Sawyer as second conferees on the part of the House.

REPORT ON ENROLLED BILLS

SR 1864, SR 1865, SR 1866, SR 1867, SR 1868 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 1, 2009.

Also, **SCR 1611** reported correctly enrolled, properly signed and presented to the Secretary of State on April 1, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Transportation** recommends **HB 2130**, be amended by adoption of the amendments recommended by the Senate Committee on Transportation as reported in the Journal of the Senate on March 16, 2009, be further amended by adoption of the amendments recommended by the Senate committee on Federal and State Affairs as reported in the Journal of the Senate on March 25, 2009, and the bill as printed, as further amended by Senate Committee, be further amended on page 1, by striking all in lines 19 through 43;

By striking all on page 2;

On page 3, by striking all in lines 1 through 41 and inserting the following:

"Section 1. K.S.A. 2008 Supp. 8-2503 is hereby amended to read as follows: 8-2503. (a) Except as provided in K.S.A. 8-1344 and 8-1345, and amendments thereto, and in subsection (b) or (c), each front seat occupant of a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208, who is 18 years of age or older, shall have a safety belt properly fastened about such person's body at all times when the passenger car is in motion.

(b) Each occupant of a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208, who is at least 14 years of age but less than 18 years of age, shall have a safety belt properly fastened about such person's body at all times when the passenger car is in motion.

(c) This section does not apply to:

(1) An occupant of a passenger car who possesses a written statement from a licensed physician that such person is unable for medical reasons to wear a safety belt system;

(2) carriers of United States mail while actually engaged in delivery and collection of mail along their specified routes;

(3) newspaper delivery persons while actually engaged in delivery of newspapers along their specified routes; or

(4) an occupant of a passenger car required to be protected by a safety restraining system under the child passenger safety act.

(d) The secretary of transportation shall initiate an educational program designed to encourage compliance with the safety belt usage provisions of this act.

(e) The secretary shall evaluate the effectiveness of this act and shall include a report of its findings in the annual evaluation report on its highway safety plan that it submits under 23 U.S.C. 402.

April 1, 2009

(f) Law enforcement officers shall not stop drivers for violations of subsection (a) by a back seat occupant in the absence of another violation of law. A citation for violation of subsection (a) by a back seat occupant shall not be issued without citing the violation that initially caused the officer to effect the enforcement stop.

Sec. 2. K.S.A. 2008 Supp. 8-2504 is hereby amended to read as follows: 8-2504. (a) (1) From and after July 1, 2007, and prior to January 1, 2008, a law enforcement officer shall issue a warning citation to anyone violating subsection (b) of K.S.A. 8-2503, and amendments thereto, (2) the effective date of this act and prior to June 30, 2009, a law enforcement officer shall issue a warning citation to anyone violating subsection (a) of K.S.A. 8-2503, and amendments thereto.

(2) On and after June 30, 2009, persons violating subsection (a) of K.S.A. 8-2503, and amendments thereto, shall be fined \$30 including court costs, and

- (3) from and after January 1, 2008, persons violating subsection (b) of K.S.A. 8-2503, and amendments thereto, shall be fined \$60 including court costs.

(b) No court shall report violation of this act to the department of revenue.

(c) Evidence of failure of any person to use a safety belt shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

Sec. 3. K.S.A. 2008 Supp. 8-2503 and 8-2504 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.";

In the title, by striking all in lines 12 through 16 and by inserting the following:

"AN ACT relating to motor vehicles; concerning the use of safety belts; amending K.S.A. 2008 Supp. 8-2503 and 8-2504 and repealing the existing sections.";

And the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Thursday, April 2, 2009.

Journal of the Senate

FIFTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, April 2, 2009—9:30 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Once more an acquaintance told me He didn't trust politicians; Not a few, not most, but all of them, Under any conditions.

So I guess what he was saying, "I don't care which way they vote, None of them are sheep, All of them are goats."

This tendency to generalize, And paint all with one brush Is what I've never understood, And would like to see it flushed!

Legislators are used to it, And take it all in stride. They're accustomed to being scapegoats, And more or less let it slide.

If I were a betting man, I would bet money That their spouses and their children Do not think it's funny.

Bad-mouthing legislators Has become so common-place, That we who defend them Feel we're out of place.

Help us, Lord, to convince the critics How this criticism sounds, And listen to themselves, And try to tone it down!

I pray in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated: Assessment and Taxation: **Sub HB 2365**.

CHANGE OF REFERENCE

The President withdrew **HB 2331** from the Committee on **Financial Institutions and Insurance**, and referred the bill to the Committee on **Ways and Means**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS DEPARTMENT OF REVENUE

April 1, 2009

As required by KSA 74-50,118(c), Joan Wagnon, Secretary of Revenue, submitted an annual report to the Governor and Legislature estimating the state tax expenditures from income tax credits claimed and sales tax exemptions allowed under the Kansas Enterprise Zone Act.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 11**, 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 amendments, as follows:

On page 5, in line 21, by striking "areas" and inserting "area"; after line 23, by inserting: "New Sec. 2. (a) As used in this section, "technical college" means a technical college designated by K.S.A. 72-4472, 72-4473, 72-4474, 72-4475, 72-4477 or K.S.A. 2008 Supp. 72-4477a, and amendments thereto.

(b) The governing body of a technical college may change the designation of such technical college by adoption of a resolution. If the designation of a technical college is changed pursuant to this section, whenever the technical college is referred to or designated by or in any contract or other document, such reference or designation shall be deemed to apply to the designation as provided in the resolution. If the designation of a technical college is changed pursuant to this section, whenever any statute refers to a technical college by the designation in K.S.A. 72-4472, 72-4473, 72-4474, 72-4475, 72-4477 or K.S.A. 2008 Supp. 72-4477a, as such sections existed prior to July 1, 2009, such reference or designation shall be construed to mean the designation as provided in the resolution.";

And by renumbering sections accordingly;

In the title, in line 12, after "to" by inserting "technical colleges and";

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

TERRIE HUNTINGTON MARC RHOADES ANN E. MAH Conferees on part of House

JEAN KURTIS-SCHODORF JOHN VRATIL ANTHONY HENSLEY Conferees on part of Senate

Senator Schodorf moved the Senate adopt the Conference Committee Report on **SB 11**. On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, PilcherCook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 19**, 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 amendments, as follows:

On page 4, in line 38, before the semicolon, by inserting ", while actually engaged in the duties of their employment or any activities incidental to such duties"; in line 40, before the semicolon, by inserting "and while actually engaged in the duties of their employment or any activities incidental to such duties"; in line 42, before the semicolon, by inserting "and while actually engaged in the duties of their employment or any activities incidental to such duties"; in line 42, before the semicolon, by inserting "and while actually engaged in the duties of their employment or any activities incidental to such duties";

On page 5, in line 2, before the period, by inserting "and while actually engaged in the duties of their employment or any activities incidental to such duties";

On page 6, in line 2, before "facility" by inserting "courthouse and court-related"; in line 9, before "facilities" by inserting "courthouse or court-related"; also in line 9, by striking all after "facilities" and inserting the following: "if:

(1)";

Also on page 6, in line 11, by striking all after "facilities"; by striking all in lines 12 and 13; in line 14, by striking all before the period; in line 18, before the period, by inserting the following:

"(2) such facilities have adequate measures for storing and securing lawfully carried weapons, including, but not limited to, the use of gun lockers or other similar storage options;

(3) such county also has a policy or regulation requiring all law enforcement officers to secure and store such officer's firearm upon entering the courthouse or court-related facility. Such policy or regulation may provide that it does not apply to court security or sheriff's office personnel for such county; and

(4) such facilities have a sign conspicuously posted at each entryway into such facility stating that the provisions of subsection (c) do not apply to such facility';

Also on page 6, in line 25, before the semicolon, by inserting "at their own expense,"; after line 29, by inserting the following:

"Sec. 5. K.S.A. 2008 Supp. 75-7c10 is hereby amended to read as follows: 75-7c10. (a) Provided that the premises are conspicuously posted in accordance with rules and regulations adopted by the attorney general as premises where carrying a concealed weapon is prohibited, no license issued pursuant to this act shall authorize the licensee to carry a concealed weapon into:

(1) Any place where an activity declared a common nuisance by K.S.A. 22-3901, and amendments thereto, is maintained;

(2) any police, sheriff or highway patrol station;

(3) any detention facility, prison or jail;

(4) any courthouse;

(5) any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in the judge's courtroom;

(6) any polling place on the day an election is held;

(7) any meeting of the governing body of a county, city or other political or taxing subdivision of the state, or any committee or subcommittee thereof;

(8) on the state fairgrounds;

(9) any state office building;

(10) any athletic event not related to or involving firearms which is sponsored by a private or public elementary or secondary school or any private or public institution of postsecondary education;

(11) any professional athletic event not related to or involving firearms;

(12) any portion of a drinking establishment as defined by K.S.A. 41-2601, and amendments thereto, except that this provision shall not apply to a restaurant as defined by K.S.A. 41-2601, and amendments thereto;

(13) any elementary or secondary school, attendance center, administrative office, services center or other facility;

(14) any community college, college or university facility;

(15) any place where the carrying of firearms is prohibited by federal or state law;

(16) any child exchange and visitation center provided for in K.S.A. 75-720, and amendments thereto;

(17) any community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; mental health clinic organized pursuant to K.S.A. 65-211 et seq., and amendments thereto; psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto; or state psychiatric hospital, as follows: Larned state hospital, Osawatomie state hospital or Rainbow mental health facility;

(18) any city hall;

(19) any public library operated by the state or by a political subdivision of the state;

(20) any day care home or group day care home, as defined in Kansas administrative regulation 28-4-113, or any preschool or childcare center, as defined in Kansas administrative regulation 28-4-420;

(21) any church or temple; or

(22) any place in violation of K.S.A. 21-4218, and amendments thereto.

(b) (1) Violation of this section is a class A misdemeanor.

(2) Notwithstanding the provisions of subsection (a), it is not a violation of this section for the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a firearm within any counthouse or court-related facility, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. The provisions of this paragraph shall not apply to any person not in compliance with section 4, and amendments thereto.

Sec. 6. K.S.A. 2008 Supp. 75-7c11 is hereby amended to read as follows: 75-7c11. (a) Nothing in this act shall be construed to prevent:

(1) Any public or private employer from restricting or prohibiting by personnel policies persons licensed under this act from carrying a concealed weapon while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer, except that no employer may prohibit possession of a firearm in a private means of conveyance, even if parked on the employer's premises; or

(2) any private business or city, county or political subdivision from restricting or prohibiting persons licensed under this act from carrying a concealed weapon within a building or buildings of such entity, provided that the premises are posted, in accordance with rules and regulations adopted by the attorney general pursuant to this section, as premises where carrying a concealed weapon is prohibited.

(b) (1) Carrying a concealed weapon in violation of any restriction or prohibition allowed by subsection (a), if the premises are posted in accordance with rules and regulations adopted by the attorney general, is a class B misdemeanor.

(2) Notwithstanding the provisions of subsection (a)(2), it is not a violation of this section for the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a firearm within any county courthouse or court-related facility, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. The provisions of this paragraph shall not apply to any person not in compliance with section 4, and amendments thereto.

(c) The attorney general shall adopt rules and regulations prescribing the location, content, size and other characteristics of signs to be posted on premises where carrying a concealed weapon is prohibited pursuant to subsection (a) of K.S.A. 2008 Supp. 75-7c10 and paragraph (2) of subsection (a) of K.S.A. 2008 Supp. 75-7c11 and amendments thereto.";

And by renumbering the remaining sections accordingly;

Also on page 6, in line 30, after "21-4201" by inserting ", 75-7c10 and 75-7c11";

On page 1, in the title, in line 13, after the semicolon, by inserting "carrying a concealed weapon;"; in line 14, after "21-4201" by inserting ", 75-7c10 and 75-7c11";

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

MELVIN NEUFELD ELAINE BOWERS JUDITH LOGANBILL Conferees on part of House

THOMAS C. OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate

Senator Owens moved the Senate adopt the Conference Committee Report on **SB 19**. On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 44**, 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 amendments, as follows:

On page 3, in line 35, by striking "more" and inserting ":

(1) More";

Also on page 3, in line 36, by striking all after the stricken word and inserting "committed; or

(2) more than 3 years after the date on which the violation was discovered or reasonably should have been discovered, but in no event more than 10 years after the date on which the violation was committed, whichever occurs last.";

On page 5, after line 26, by inserting the following:

"Sec. 12. K.S.A. 60-455 is hereby amended to read as follows: 60-455. (*a*) Subject to K.S.A. 60-447, *and amendments thereto*, evidence that a person committed a crime or civil wrong on a specified occasion, is inadmissible to prove his or her *such person's* disposition to commit crime or civil wrong as the basis for an inference that the person committed another crime or civil wrong on another specified occasion but,

(b) Subject to K.S.A. 60-445 and 60-448, and amendments thereto, such evidence is admissible when relevant to prove some other material fact including motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake or accident.

(c) Subject to K.S.A. 60-445 and 60-448, and amendments thereto, in any criminal action other than a criminal action in which the defendant is accused of a sex offense under articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, such evidence is admissible to show the modus operandi or general method used by a defendant

to perpetrate similar but totally unrelated crimes when the method of committing the prior acts is so similar to that utilized in the current case before the court that it is reasonable to conclude the same individual committed both acts.

(d) Except as provided in K.S.A. 60-445, and amendments thereto, in a criminal action in which the defendant is accused of a sex offense under articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, evidence of the defendant's commission of another act or offense of sexual misconduct is admissible, and may be considered for its bearing on any matter to which it is relevant and probative.

(e) In a criminal action in which the prosecution intends to offer evidence under this rule, the prosecuting attorney shall disclose the evidence to the defendant, including statements of witnesses, at least 10 days before the scheduled date of trial or at such later time as the court may allow for good cause.

(f) This rule shall not be construed to limit the admission or consideration of evidence under any other rule or to limit the admissibility of the evidence of other crimes or civil wrongs in a criminal action under a criminal statute other than in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

(g) As used in this section, an "act or offense of sexual misconduct" includes:

(1) Any conduct proscribed by article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto;

(2) the sexual gratification component of aggravated trafficking, as described in subsection (a)(1)(B) and (a)(2) of K.S.A. 21-3447, and amendments thereto;

(3) exposing another to a life threatening communicable disease, as described in subsection (a)(1) of K.S.A. 21-3435, and amendments thereto;

(4) incest, as described in K.S.A. 21-3602, and amendments thereto;

(5) aggravated incest, as described in K.S.A. 21-3603, and amendments thereto;

(6) contact, without consent, between any part of the defendant's body or an object and the genitals, mouth or anus of the victim;

(7) contact, without consent, between the genitals, mouth or anus of the defendant and any part of the victim's body;

(8) deriving sexual pleasure or gratification from the infliction of death, bodily injury or physical pain to the victim;

(9) an attempt, solicitation or conspiracy to engage in conduct described in paragraphs (1) through (8); or

(10) any federal or other state conviction of an offense, or any violation of a city ordinance or county resolution, that would constitute an offense under article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, the sexual gratification component of aggravated trafficking, as described in subsection (a)(1)(B) and (a)(2) of K.S.A. 21-3447, and amendments thereto; incest, as described in K.S.A. 21-3602, and amendments thereto; or aggravated incest, as described in K.S.A. 21-3603, and amendments thereto, or involved conduct described in paragraphs (6) through (9).

(h) If any provisions of this section or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provisions or application. To this end the provisions of this section are severable.

Sec. 13. K.S.A. 60-1505 is hereby amended to read as follows: 60-1505. (a) *Summary proceedings*. The judge shall proceed in a summary way to hear and determine the cause and may do so regardless of whether the person restrained is present. If the plaintiff is an inmate in the custody of the secretary of corrections and the motion and the files and records of the case conclusively show that the inmate is entitled to no relief, the writ shall be dissolved at the cost of the inmate.

(b) Infectious diseases. When any person is restrained because of an alleged infectious or communicable disease, the judge shall appoint a board of not less than two competent physicians to make an examination of such person and report their findings to the judge.

(c) *Temporary orders*. The judge may make an order for the temporary custody of the party and any other temporary orders during the pendency of the proceeding that justice may require.

(d) *Judgment.* If the court determines that the restraint is not wrongful, the writ shall be dissolved at the cost of the plaintiff. If the restraint is found to be wrongful, the judgment shall be either that the person shall be released, or that custody shall be transferred to some other person rightfully entitled thereto, and the court may make such other orders as justice and equity or the welfare of a minor physically present in the state may require. In cases in which the person restrained is a minor, or other incompetent or incapacitated, at the time of rendering judgment at the request of any person adversely affected thereby, the judge shall stay the enforcement of the judgment for a period of not to exceed 48 hours to permit the filing of an appeal, and the judge may provide for the temporary custody of the person during such stay in such manner as the judge sees fit. Enforcement of the judgment after the taking of any appeal may be stayed on such terms and conditions, including such provisions for custody during pendency of the appeal, as the judge shall prescribe. If the state, in open court, announces its intention to appeal from an order discharging a prisoner, the judge shall stay the enforcement of the judgment for a period not more than 24 hours to permit the filing of an appeal.

(e) (1) *The Record.* In habeas corpus proceedings involving extradition to another state, when written notice of appeal from a judgment or an order is filed, the transcript shall be prepared within 20 days after the notice of appeal is filed and sent to the appellate court for review. The appellate court may shorten or extend the time for filing the record if there is a reasonable explanation for the need for such action. When the record is received by the appellate court, the court shall set the time for filing of briefs, if briefs are desired, and shall set the appeal for submission.

(2) *Hearing.* Such cases, taken to the court of appeals by appeal, shall be heard at the earliest practicable time. The appellant need not be personally present, and such appeal shall be heard and determined upon the law and the facts arising upon record. No incidental question which may have arisen on the hearing of the application before the court shall be reviewed.

(3) Orders on Appeal. In such cases, the appellate court shall render such judgment and make such orders as the law and the nature of the case may require, and may make such orders relative to the costs in the case as may seem right, allowing costs and fixing the amount, or allowing no cost at all.

Sec. 14. K.S.A. 60-455 and 60-1505 are hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 10, after "concerning" by inserting "civil procedure; relating to"; also in line 10 by striking "relating to the"; in line 12, before the period by inserting "; rules of evidence; admissibility of prior acts or offenses; habeas corpus; infections disease; amending K.S.A. 60-455 and 60-1505 and repealing the existing sections";

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

LANCE KINZER JEFF WHITHAM JANICE L. PAULS Conferees on part of House

THOMAS C. OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate

Senator Owens moved the Senate adopt the Conference Committee Report on **SB 44**. On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, PilcherCook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 87**, 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 amendments, as follows:

On page 10, by striking all in lines 4 through 19;

And by renumbering the remaining sections accordingly;

On page 19, in line 35, before the period by inserting ";

(3) based upon an investigation of the facts by the state agency, beyond receipt of the allegations, the state agency believes in good faith that the allegations will be supported to the applicable standard of proof, provided however that an alleged failure to meet the standards set forth in this subsection shall not be subject to immediate judicial review and shall not invalidate any later agency action that has been supported to the applicable standard of proof; and

(4) the order does not take effect until after the time for requesting a hearing has expired";

On page 24, in line 26, by striking "77-512,"

On page 1, in the title, in line 14, by striking "77-512,";

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

LANCE KINZER JEFF WHITHAM JANICE L. PAULS Conferees on part of House

THOMAS C. OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate

Senator Owens moved the Senate adopt the Conference Committee Report on **SB 87**. On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting

1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 154**, 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 amendments, as follows:

On page 1, by striking all in lines 14 through 43;

On page 2, by striking all in lines 1 through 27 and inserting in lieu thereof the following: "New Section 1. As used in this act:

(a) "Act" means the provisions of K.S.A. 50-6a01 through 50-6a06, and amendments thereto, and the provisions of sections 1 through 15, and amendments thereto.

(b) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors or any other indicia of product identification identical, similar to or identifiable with a previously known brand of cigarettes.

(c) "Cigarette" has the same meaning given that term in subsection (d) of K.S.A. 50-6a02, and amendments thereto.

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

(e) "Master settlement agreement" has the same meaning given that term in subsection (e) of K.S.A. 50-6a02, and amendments thereto.

(f) "Non-participating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(g) "Participating manufacturer" has the meaning given that term in subsection (i)(1) of K.S.A. 50-6a02, and amendments thereto.

(h) "Qualified escrow fund" has the same meaning given that term in subsection (f) of K.S.A. 50-6a02, and amendments thereto.

(i) "Resident agent" means a domestic corporation, a domestic limited partnership, a domestic limited liability company or a domestic business trust or a foreign corporation, a foreign limited partnership, a foreign limited liability company or a foreign business trust authorized to transact business in this state, and which is generally open during regular business hours to accept service of process on behalf of a non-participating manufacturer.

(j) "Retail dealer" has the same meaning given that term in subsection (q) of K.S.A. 79-3301, and amendments thereto.

(k) "Stamping agent" means a person who is authorized to affix tax indicia to packages of cigarettes pursuant to K.S.A. 79-3311, and amendments thereto, or any person who is required to pay the tax on the privilege of selling or dealing in roll-your-own tobacco products pursuant to K.S.A. 79-3371, and amendments thereto.

(l) "Tax indicia" has the same meaning given that term in subsection (u) of K.S.A. 79-3301, and amendments thereto.

(m) "Tobacco product manufacturer" has the same meaning given that term in subsection (i) of K.S.A. 50-6a02, and amendments thereto.

(n) "Units sold" has the same meaning given that term in subsection (j) of K.S.A. 50-6a02, and amendments thereto.

(o) "Vending machine operator" has the same meaning given that term in subsection (y) of K.S.A. 79-3301, and amendments thereto.

New Sec. 2. (a) Any non-participating manufacturer that has not registered with the secretary of state to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of this act may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the non-participating manufacturer. The non-participating manufacturer shall provide to the attorney general the name, address, phone number, proof of the appointment and availability of such resident agent, and such information shall be provided to the satisfaction of the attorney general.

(b) (1) A non-participating manufacturer may substitute its resident agent for another by notifying, in writing sent via certified or registered mail, the attorney general of such termination of the authority of the current agent and providing proof to the satisfaction of the attorney general of the appointment of a new agent. Such substitution shall not become effective until 30 days after receipt of such notification by the attorney general.

(2) A resident agent of a non-participating manufacturer that wishes to resign shall notify the attorney general, in writing via certified or registered mail, and provide to the attorney general the name and address of the successor agent. There shall be attached to the notification a statement of each affected non-participating manufacturer ratifying such change of resident agent. Upon receipt of such notification by the attorney general, the successor resident agent shall become the resident agent of such non-participating manufacturers that have ratified and approved the substitution.

(3) (A) A resident agent of a non-participating manufacturer may resign without appointing a successor by notifying, in writing sent via certified or registered mail, the attorney general. Such resignation shall not become effective until 60 days after receipt of such notification by the attorney general. There shall be attached to the notification an affidavit by the resident agent, if an individual, or by the authorized officer, if a corporation or other business entity, attesting that at least 30 days prior to the expiration of the 60 day period, notice was sent via certified or registered mail to the designated contact of the non-participating manufacturer for which such resident agent was acting that such agent was resigning its position.

(B) After receipt of the notice of resignation of its resident agent, the non-participating manufacturer for which such resident agent was acting shall obtain and designate a new resident agent to take the place of the resigning resident agent. If such non-participating manufacturer fails to obtain and designate a new resident agent and provide notice thereof, in writing via certified or registered mail, to the attorney general prior to the expiration of the 60-day period provided in subparagraph (A), such non-participating manufacturer shall be removed from the directory.

(4) If a resident agent of a non-participating manufacturer dies, the non-participating manufacturer shall have 30 days after the death of such resident agent to appoint and notify, in writing via certified or registered mail, the attorney general of the non-participating manufacturer's new resident agent. Service upon the non-participating manufacturer after the death of such agent but prior to the appointment of a new agent shall be had upon the secretary of state. Failure by the non-participating manufacturer to appoint a new resident agent, and provide proof of such appointment to the satisfaction of the attorney general prior to the expiration of the 30-day period shall result in removal from the directory.

(5) After the resignation of the resident agent becomes effective as provided in subparagraph (3)(A), or after the death of such resident agent as provided in paragraph (4), and if no new resident agent is obtained and notification is provided in the time and manner required in this section, then service of process against the non-participating manufacturer for which the previous resident agent had been acting shall thereafter be made upon the secretary of state in the manner prescribed by K.S.A. 60-304, and amendments thereto.

(c) A non-participating manufacturer shall provide irrevocable written consent that actions brought under this act may be commenced against it in the district court of the third judicial district, Shawnee county, Kansas, by service of process on the appointed service of process agent designated pursuant to this section.

(d) A resident agent may change the resident agent's address when appointed to accept service of process on behalf of a non-participating manufacturer for which such agent is a resident agent, to another address in this state by mailing a letter, via certified or registered mail, to the attorney general. The letter shall be on company letterhead and executed by the resident agent. The letter shall contain the following:

(1) The names of all non-participating manufacturers represented by the resident agent;

(2) the address at which the resident agent has maintained the resident agent's office for each manufacturer;

(3) a certification of the new address to which the resident agent's address will be changed to on a given day; and

(4) a certification at which the resident agent will thereafter maintain the resident agent's address for each of the non-participating manufacturers recited in the letter.

Upon the filing of the letter with the attorney general and thereafter, or until further change of address, as authorized by law, the office address of the resident agent recited in the letter shall be located at the new address of the resident agent as provided in the letter.

New Sec. 3. (a) (1) No later than 10 calendar days after the end of each calendar month, and more frequently if so directed by the attorney general or director, each stamping agent authorized to affix tax indicia to packages of cigarettes pursuant to K.S.A. 79-3311, and amendments thereto, shall submit such information as the attorney general or director requires. No later than 20 calendar days after the end of each calendar month, and more frequently if so directed by the attorney general or director, each stamping agent who is

required to pay the tax on the privilege of selling or dealing in roll-your-own tobacco products pursuant to K.S.A. 79-3371, and amendments thereto, shall submit such information as the attorney general or director requires.

(2) Invoices and documentation of sales of all non-participating manufacturer cigarettes, and any other information relied upon in reporting to the director shall, upon request, be made available to the director. Such invoices and documents shall be maintained for a period of at least three years.

(b) At any time, the attorney general may request from the non-participating manufacturer or the financial institution at which such manufacturer has established a qualified escrow fund for the purpose of compliance with subsection (b) of K.S.A. 50-6a03, and amendments thereto, proof of the amount of money in such fund, exclusive of interest, the amount and date of each deposit to such fund and the amount and date of each withdrawal from such fund.

(c) In addition to the information required to be submitted pursuant to subsections (a) and (b) and subsection (c) of K.S.A. 50-6a04, and amendments thereto, the attorney general or the director may require a stamping agent or tobacco product manufacturer to submit any additional information including, but not limited to, samples of the packaging or labeling of each brand family as is necessary to enable the attorney general to determine whether a tobacco product manufacturer is in compliance with this act.

(d) A stamping agent or non-participating manufacturer receiving a request pursuant to subsection (c) shall provide the requested information within 30 calendar days from receipt of the request.

New Sec. 4. (a) The director is authorized to disclose to the attorney general any information received under this act, as requested by the attorney general for purposes of determining compliance with or enforcing the provisions of this act. The director and attorney general shall share with each other information received under this act and the director and the attorney general may share such information with federal agencies, attorneys general of other states or directors of taxation or their equivalents of other states, for purposes of enforcement of this act, the corresponding federal laws or the corresponding laws of other states.

(b) Except as otherwise provided, any information provided to the attorney general or director for purposes of enforcement of this act may be shared between the attorney general and the director and shall not be disclosed publicly by the attorney general or the director except when necessary to facilitate compliance with and enforcement of this act.

(c) On a quarterly basis, and upon request made in writing by a tobacco product manufacturer, the attorney general or the director may provide the name of any stamping agent who reports selling the tobacco product manufacturer's products.

(d) On a quarterly basis, and upon request made in writing by a tobacco product manufacturer, a stamping agent shall provide to the requesting tobacco product manufacturer the total number of cigarettes, by brand family, which the stamping agent reported to the attorney general or director pursuant to section 3, and amendments thereto, provided that such information provided by the stamping agent to a tobacco product manufacturer shall be limited to the brand families of that manufacturer as listed in the directory established in subsection (b) of K.S.A. 50-6a04, and amendments thereto.

(e) Unless disclosure is authorized under this section, all information obtained by the director and disclosed to the attorney general or shared with federal agencies, attorneys general of other states or directors of taxation or their equivalents of other states for purposes of enforcement of this act, the corresponding federal laws or the corresponding laws of other states, shall be confidential. The penalties provided under K.S.A. 75-5133, and amendments thereto, shall not apply when information is lawfully disclosed pursuant to this section.

New Sec. 5. (a) Notwithstanding any other provision of law, if a newly qualified nonparticipating manufacturer is to be listed in the directory, or if the attorney general reasonably determines that any non-participating manufacturer who has filed a certification pursuant to subsection (c) of K.S.A. 50-6a04, and amendments thereto, poses an elevated risk for noncompliance with this act neither such non-participating manufacturer nor any of its brand families shall be included or retained in the directory unless and until such nonparticipating manufacturer, or its United States importer that undertakes joint and several liability for the manufacturer's performance in accordance with subsection (c)(3)(I) of K.S.A. 50-6a04, and amendments thereto, has posted a bond in accordance with this section.

(b) The bond required by this section shall be posted by corporate surety located within the United States in an amount equal to the greater of \$50,000 or the amount of escrow the non-participating manufacturer in either its current or predecessor form was required to deposit for sales of cigarettes in this state during the previous calendar year. The bond shall be written in favor of the state of Kansas and shall be conditioned on the performance by the non-participating manufacturer, or its United States importer that undertakes joint and several liability for the manufacturer's performance in accordance with subsection (c)(3)(I) of K.S.A. 50-6a04, and amendments thereto, of all of its duties and obligations under this act during the year in which the certification is filed and the next succeeding calendar year.

(c) A non-participating manufacturer may be deemed to pose an elevated risk for non-compliance with this act if:

(1) The non-participating manufacturer, or any affiliate thereof, has underpaid an escrow obligation with respect to any other state or jurisdiction that is a party to the master settlement agreement at any time within the three calendar years prior to the date of submission or approval of the most recent certification, unless:

(A) The non-participating manufacturer did not make the underpayment knowingly or recklessly and the non-participating manufacturer promptly cured the underpayment within 180 calendar days of notice of the underpayment; or

(B) the underpayment or lack of payment is the subject of a good faith dispute as documented to the satisfaction of the attorney general and the underpayment is cured within 90 calendar days of entry of a final order establishing the amount of the required escrow payment;

(2) any state or jurisdiction that is party to the master settlement agreement has removed the non-participating manufacturer, or its brands or brand families, or an affiliate, or such affiliate's brands or brand families, from the state's directory for noncompliance with the corresponding laws of such other state or jurisdiction at any time within three calendar years prior to the date of submission or approval of the most recent certification; or

(3) any state or jurisdiction that is party to the master settlement agreement has pending litigation, or an unsatisfied judgment against the non-participating manufacturer, or any affiliate thereof, for unpaid escrow obligations, or associated penalties, costs or attorney fees.

(d) As used in this section, "newly qualified non-participating manufacturer" means a non-participating manufacturer that has not previously been listed in the directory. Such non-participating manufacturer may be required to post a bond in accordance with this section for the first five years of its listing, or longer, if they have been deemed to pose an elevated risk for noncompliance.

New Sec. 6. No wholesale dealer, as defined in K.S.A. 79-3301, and amendments thereto, or distributor, as defined in K.S.A. 79-3301, and amendments thereto, of cigarettes shall be issued a license or granted a renewal of a license by the Kansas department of revenue unless such wholesale dealer or distributor has provided to the director reasonable assurances, in writing and under penalty of perjury, that such person will comply fully with the stamping agent requirements in this act.

New Sec. 7. (a) In addition to or in lieu of any other civil or criminal remedy provided by law, the director or the director's designee, upon a finding that a stamping agent has violated subsection (a) of K.S.A. 50-6a04, and amendments thereto, or any rules or regulations adopted pursuant to this act, may revoke or suspend the license of any licensee in the manner provided by K.S.A.79-3309, and amendments thereto. Each package of cigarettes to which tax indicia is affixed, is caused to be affixed or tax is paid thereupon, and each sale or offer to sell cigarettes in violation of subsection (a) of K.S.A. 50-6a04, and amendments thereto, shall constitute a separate violation. The director may also impose a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes involved or \$5,000 upon a finding of violation of subsection (a) of K.S.A. 50-6a04, and amendments thereto, or a violation of any rules or regulations adopted pursuant to this act. Such fine shall be imposed in the manner provided by K.S.A. 79-3391, and amendments thereto. Any fine collected pursuant to this subsection shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the cigarette and tobacco products regulation fund created pursuant to subsection (e) of K.S.A. 79-3391, and amendments thereto. The moneys credited to this fund shall be used for the purposes of enforcement of this act, or K.S.A. 79-3301 et seq., and amendments thereto.

(b) The attorney general or the attorney general's duly authorized designee shall, when requested by the director, assist the director in a hearing to suspend or revoke a stamping agent's license for a violation of this act.

New Sec. 8. (a) The following shall be deemed contraband under K.S.A. 79-3323, and amendments thereto:

(1) $\,$ Any cigarettes that have been sold, offered for sale or possessed for sale in this state in violation of subsection (a) of K.S.A. 50-6a04, and amendments thereto; and

(2) any cigarettes to which tax indicia has been affixed, was caused to be affixed or the tax paid thereupon as required by K.S.A. 79-3311 or 79-3371, and amendments thereto, in violation of subsection (a) of K.S.A. 50-6a04, and amendments thereto.

(b) Any cigarettes constituting contraband may be seized by the attorney general or attorney general's authorized agent, the director or director's authorized agent or any law enforcement officer. All such cigarettes shall be subject to seizure, with or without process or warrant, and forfeiture, as provided herein and in K.S.A. 79-3324a, and amendments thereto, and shall be destroyed and not resold. Such cigarettes shall be deemed contraband whether the violation of subsection (a) of K.S.A. 50-6a04, and amendments thereto, is knowing or otherwise.

(c) (1) Any stamping agent that distributes cigarettes in a state other than Kansas may store in its Kansas warehouse cigarettes made contraband pursuant to this section if such stamping agent has affixed the tax indicia of such other state to each package of cigarettes or can provide evidence that it has paid the required tax thereupon.

(2) Cigarettes made contraband pursuant to this section, without being subject to seizure or forfeiture, may be transported in, into or through the state either:

- (A) On a commercial carrier with a proper bill of lading with an out-of-state destination;
- (B) when the tax indicia of another state is affixed to each package of cigarettes; or

(C) on a commercial carrier with a proper bill of lading to a licensed Kansas stamping agent who affixes tax indicia to cigarettes for sale in a state other than Kansas if the packing slip accompanying the shipment indicates the shipment is for sale in a state other than Kansas and identifies the state in which the shipment is to be sold. The time of delivery of the shipments shall be indicated on the bill of lading of the common carrier when delivery is completed. The receiving Kansas stamping agent must, within 24 hours of receiving the delivery, affix or caused to be affixed to each package of cigarettes the stamp of the state in which they are to be sold.

New Sec. 9. The attorney general, on behalf of the director, may seek an injunction to restrain a threatened or actual violation of this act by a stamping agent and to compel the stamping agent to comply with this act.

New Sec. 10. (a) It shall be unlawful for a person to sell or distribute cigarettes, or acquire, hold, own, possess, transport, import or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in this state in violation of subsection (a) of K.S.A. 50-6a04, and amendments thereto. A violation of this subsection shall be a class B misdemeanor.

(b) It shall be unlawful for a non-participating manufacturer, directly or indirectly, to falsely represent to any person in Kansas:

- (1) Any information about a brand family listed on the directory;
- (2) that it is a participating manufacturer;
- (3) that it has made all required escrow payments; or

(4) that it has satisfied any other requirements imposed pursuant to this act.

A violation of this subsection is a class A nonperson misdemeanor.

(c) The attorney general shall have concurrent authority with any county or district attorney to prosecute any violation of this section.

New Sec. 11. (a) Any violation of this act involving the sale or attempted sale of cigarettes by a stamping agent to a retail dealer, vending machine operator or consumer, or by a retail dealer or vending machine operator to a consumer, shall constitute an unlawful and deceptive trade practice as provided in K.S.A. 50-626, and amendments thereto, and shall be subject to the penalties provided for in K.S.A. 50-623 et seq., and amendments thereto, in lieu of or in addition to any penalties provided in this act.

(b) For purposes of this section, a stamping agent shall be deemed a "supplier" for purposes of a consumer transaction, as defined in subsection (c) of K.S.A. 50-624, and amendments thereto, regardless of whether the stamping agent sells to a retail dealer or consumer.

(c) If a court determines that a person has violated this act, the court shall order any profits, gains, gross receipts or other benefit from the violation be surrendered. Any profits, gains, gross receipts or other benefit surrendered from the violation shall be collected pursuant to this subsection and shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the cigarette and tobacco products regulation fund created pursuant to subsection (e) of K.S.A. 79-3391, and amendments thereto.

(d) Unless otherwise expressly provided, the remedies or penalties provided by this act are cumulative to each other and to the remedies or penalties under all other laws of this state.

New Sec. 12. In any action brought by the state to enforce the provisions of this act the state shall be entitled to recover the costs of investigation, expert witness fees, costs of the action and reasonable attorney fees. Recovery of such costs and fees shall be remitted to the state agency or agencies who initiated and brought such action.

New Sec. 13. In any action under K.S.A. 50-6a03, and amendments thereto, reports of the numbers of non-participating manufacturers' cigarettes submitted to the attorney general or director pursuant to subsection (a) of section 3, and amendments thereto, shall be admissible in evidence. These reports shall be presumed to accurately account for the number of cigarettes on which state taxes were paid during the time period by the stamping agent that submitted the report absent a contrary showing by the non-participating manufacturer or importer. Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that such reports are incorrect or do not accurately reflect a non-participating manufacturer's sales in the state during the time period in question, and the presumption shall not apply in the event the state does so maintain.

New Sec. 14. Notwithstanding subsection (j) of K.S.A. 50-6a02, and amendments thereto, the attorney general may promulgate rules and regulations necessary to effect the purposes of this act for the regulation of tobacco product manufacturers. The director may promulgate rules and regulations necessary to effect the purposes of this act for the regulation of stamping agents, retail dealers and vending machine operators.

New Sec. 15. If a court of competent jurisdiction finds that the provisions of K.S.A. 50-6a01 through 50-6a03, and amendments thereto, conflict with and cannot be reconciled with any other provisions of this act, then such provisions of K.S.A. 50-6a01 thru 50-6a03, and amendments thereto, shall control. If any provision of this act causes K.S.A. 50-6a01 through 50-6a03, and amendments thereto, to no longer constitute a qualifying or model statute as those terms are defined in the master settlement agreement, then that portion of this act shall not be valid. If any provision of this act is for any reason held to be invalid, unlawful or unconstitutional, such decision shall not affect the validity of the remaining portions of this act or any part thereof.

Sec. 16. K.S.A. 50-6a04 is hereby amended to read as follows: 50-6a04. (a) No person may affix, or cause to be affixed, tax stamps or meter impressions to individual packages of cigarettes or pay the required tax on roll-your-own tobacco in accordance with K.S.A. 79-3371, and amendments thereto, unless the tobacco product manufacturer that makes or sells such cigarettes or roll-your-own tobacco has.

— (1) Become a participating manufacturer; or

(2) made all required escrow payments. No person may: (1) Affix, or cause to be affixed, tax indicia to a package of cigarettes, or otherwise pay the tax due upon such cigarettes, of a tobacco product manufacturer brand family not included in the directory; or

(2) sell, offer, possess for sale or import for personal consumption in this state, cigarettes of a tobacco product manufacturer brand family not included in the directory.

(b) (1) Not later than July 1, 2002 2009, the attorney general shall develop a list directory, to be posted on the attorney general's website, of all tobacco product manufacturers that have become participating manufacturers or made all required escrow payments. This list shall include the brand families identified by each such tobacco product manufacturer under subsection (c). The list shall be updated as necessary. A person may rely upon the attorney general's list in affixing or causing to be affixed stamps or meter impressions to individual packages of cigarettes or paying the tax on roll-your-own tobacco as required by K.S.A. 79-3371, and amendments thereto, of any brand family included on the list. Except as otherwise provided, the directory shall list all tobacco product manufacturers and brand families of such tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of subsection (c).

(2) The attorney general shall not include or retain in the directory any non-participating manufacturer, or non-participating manufacturer's brand family, that has failed to provide the required certification, or whose certification the attorney general determines is not in compliance with subsection (c), unless such failure or noncompliance has been cured to the satisfaction of the attorney general.

(3) In the case of a non-participating manufacturer, neither the tobacco product manufacturer nor a brand family shall be included or retained in the directory if the attorney general concludes:

(A) That an escrow payment required pursuant to K.S.A. 50-6a03, and amendments thereto, for any period for any brand family, whether or not listed by such non-participating manufacturer, has not been fully paid into a qualified escrow fund governed by an escrow agreement that has been approved by the attorney general;

(B) that an outstanding final judgment, including interest thereon, for a violation of K.S.A. 50-6a03, and amendments thereto, has not been fully satisfied for such tobacco product manufacturer; or

(C) that, within three calendar years prior to the date of submission or approval of the most recent certification, such tobacco product manufacturer has defaulted on escrow payments in any other state or jurisdiction that is a party to the master settlement agreement and the default has not been cured within 90 calendar days of such default.

(4) The attorney general shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family so as to keep the directory in conformity with the requirements of this act.

(5) The attorney general shall promptly post in the directory and transmit by electronic mail to each stamping agent that has provided an electronic mail address, notice of removal from the directory of a tobacco product manufacturer or brand family.

(6) Unless otherwise provided by agreement between a stamping agent and a tobacco product manufacturer, the stamping agent shall be entitled to a refund from a tobacco product manufacturer for any money paid by the stamping agent to the tobacco product manufacturer for any cigarettes of the tobacco product manufacturer in the possession of the stamping agent on the effective date of removal from the directory of that tobacco product manufacturer or brand family.

(7) Unless otherwise provided by agreement between a retail dealer or a vending machine operator and a tobacco product manufacturer, a retail dealer or a vending machine operator shall be entitled to a refund from a tobacco product manufacturer for any money paid by the retail dealer or vending machine operator to a stamping agent for any cigarettes of the tobacco product manufacturer still in the possession of the retail dealer or vending machine operator on the effective date of removal from the directory of that tobacco product manufacturer or brand family.

(c) In order to be included on the list developed by the attorney general under subsection (b), a tobacco product manufacturer shall (1) submit to the attorney general a list of brand families whose cigarettes are to be counted in calculating the participating manufacturer's annual payments under the master settlement agreement or required escrow payments whichever is applicable, (2) appoint a registered agent for service of process in the state and identify such registered agent to the attorney general, and (3) certify, under penalty of perjury, that all escrow payments have been made by all other tobacco product manufacturers that previously made or sold brand families identified under this subsection or brand style included within such brand families, except that, if the brand family or brand style was made or sold by the manufacturer before the effective date of this act, such manufacturer shall be required only to identify such predecessor manufacturer or manufacturers. A tobacco product manufacturer may update the list to reflect changes. (1) On or before April 30 of each year, every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a stamping agent or similar intermediary or intermediaries, shall execute and deliver in the manner prescribed by the attorney general a certification to the attorney general certifying under penalty of perjury that, as of the date of such certification, such tobacco product manufacturer either is:

(A) A participating manufacturer; or

(B) in full compliance with K.S.A. 50-6a03, and amendments thereto, including payment of all quarterly installment payments as may be required by subsection (d).

(2) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update such list 30 calendar days prior to any addition to, or modification of its brand families by executing and delivering a supplemental certification to the attorney general.

(3) A non-participating manufacturer shall include in its certification:

(A) The number of units sold for each brand family sold in the state during the preceding calendar year;

(B) a list of all of its brand families sold in the state at any time during the current calendar year, including any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of such certification;

(C) the identity, by name and address, of any other tobacco product manufacturer who manufactured such brand families in the preceding or current calendar year;

(D) a declaration that such non-participating manufacturer is registered to do business in the state, or has appointed a resident agent for service of process, and provided notice thereof as required by section 2, and amendments thereto;

(*E*) a declaration that such non-participating manufacturer:

(i) Has established and continues to maintain a qualified escrow fund; and

(ii) has executed an escrow agreement that governs the qualified escrow fund and that such escrow agreement has been reviewed and approved by the attorney general;

(F) a declaration that such non-participating manufacturer consents to the jurisdiction of the district court of the third judicial district, Shawnee county, Kansas, for purposes of enforcing this act, or rules or regulations promulgated pursuant thereto, as required by subsection (c) of section 2, and amendments thereto;

(G) a declaration that such non-participating manufacturer is in full compliance with subsection (b) of K.S.A. 50-6a03, and amendments thereto, and any rules or regulations promulgated pursuant to this act;

(H) (i) the name, address and telephone number of the financial institution where the non-participating manufacturer has established such qualified escrow fund required pursuant to subsection (b) of K.S.A. 50-6a03, and amendments thereto;

(ii) the account number of such qualified escrow fund and any sub-account number for the state of Kansas;

(iii) the amount such non-participating manufacturer placed in such qualified escrow fund for cigarettes sold in this state during the preceding calendar year, the date and amount of each such deposit and such evidence or verification as may be deemed necessary by the attorney general to confirm the foregoing; and

(iv) the amount and date of any withdrawal or transfer of funds the non-participating manufacturer made at any time from such qualified escrow fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to subsection (b) of K.S.A. 50-6a03, and amendments thereto; and

(I) in the case of a non-participating manufacturer located outside of the United States, a declaration from each of its importers to the United States of any of its brand families to be sold in Kansas that such importer accepts joint and several liability with the non-participating manufacturer for:

(i) All escrow deposits due under subsection (b) of K.S.A. 50-6a03, and amendments thereto;

(ii) all penalties assessed under subsection (b) of K.S.A. 50-6a03, and amendments thereto; and

(iii) payment of all costs and attorney fees pursuant to any successful action under this act against said manufacturer.

Such declarations by importers of a non-participating manufacturer shall appoint for the declarant a resident agent for service of process in Kansas in accordance with section 2, and amendments thereto, and consent to jurisdiction in accordance with section 2, and amendments thereto.

(4) A tobacco product manufacturer may not include a brand family in its certification unless:

(A) In the case of a participating manufacturer, said participating manufacturer affirms that the brand family shall be deemed to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year in the volume and shares determined pursuant to the master settlement agreement; or

(B) in the case of a non-participating manufacturer, said non-participating manufacturer affirms that the brand family shall be deemed to be its cigarettes for purposes of subsection (b) of K.S.A. 50-6a03, and amendments thereto.

Nothing in this paragraph shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or subsection (b) of K.S.A. 50-6a03, and amendments thereto.

(5) Invoices and documentation of sales and other such information relied upon for such certification shall be maintained by tobacco product manufacturers for a period of at least five years.

(d) In addition to or in lieu of any other civil or criminal penalty provided by law, upon a finding that a licensee has violated subsection (a) or any rules and regulations adopted pursuant thereto, the director may revoke or suspend the license of any licensee in the manner provided by K.S.A. 79-3309, and amendments thereto. The director may also impose a civil fine in an amount not to exceed the greater of 500% of the retail value of the cigarettes or roll-your-own tobacco involved or \$5,000 upon a finding of a violation of subsection (a) or any rules and regulations adopted pursuant thereto. Such fine shall be imposed in the manner provided by K.S.A. 79-3391, and amendments thereto. The attorney general may require a tobacco product manufacturer subject to the requirements of subsection (c) to make the escrow deposits required by subsection (b) of K.S.A. 50-6a03, and amendments thereto, in quarterly installments during the calendar year in which the sales covered by such deposits are made. The attorney general may require production of information sufficient to enable the attorney general to determine the adequacy of the amount of the installment deposit.

(e) Any cigarettes or roll-your-own tobacco that are stamped, to which a meter impression is affixed or for which tax is paid as required by K.S.A. 79-3371, and amendments thereto, in violation of subsection (a) shall be deemed contraband under K.S.A. 79-3323, and amendments thereto, and shall be subject to seizure and forfeiture as provided therein and in K.S.A. 79-3324a, and amendments thereto. All such cigarettes and roll-your-own tobacco seized and forfeited shall be destroyed. Such cigarettes and roll-your-own tobacco shall be deemed contraband whether the violation of subsection (a) is knowing or otherwise. (f) (1) The director may require wholesale dealers and distributors to submit such information as is necessary to enable the attorney general to determine whether a nonparticipating manufacturer has made the required escrow payments.

(2) The attorney general may require nonparticipating manufacturers to submit such information as the attorney general may determine is necessary to enable the attorney general to determine whether a nonparticipating manufacturer has made the required escrow payments.

(g) The attorney general may require a nonparticipating manufacturer to make the required escrow payments in quarterly installments during the year in which the sales covered by such payments are made in order to be placed on the list developed by the attorney general under subsection (b).

- (h) (1) It shall be unlawful for a nonparticipating manufacturer, directly or indirectly, to falsely represent to any person in Kansas.

- (A) Any information about a brand family pursuant to the list submitted pursuant to subsection (b),

(B) that it is a participating manufacturer;

(C) that it has made all required escrow payments; or

(D) that it has satisfied any other requirements imposed pursuant to this statute.

(2) Violation of this section is a class A, nonperson misdemeanor.

(i) The director and the attorney general may enter into a written agreement authorizing the exchange of information reasonably necessary to the enforcement and administration of this section.

(j) As used in this section.

(1) "Participating manufacturer" has the meaning ascribed thereto in subsection (a) of K.S.A. 50-6a03, and amendments thereto.

(2) "Required escrow payments" means the amounts described in subsection (b)(1) of K.S.A. 50-6a03, and amendments thereto:

-(3) "Director" means the director of taxation.";

And by renumbering sections accordingly;

Also on page 2, in line 28, by striking "60-1505" and inserting "50-6a04"; in line 30, by striking "Kansas register" and inserting "statute book";

In the title, in line 10, by striking all after "concerning"; in line 11, by striking "disease; amending K.S.A. 60-1505" and inserting "tobacco; relating to the enforcement of the laws regarding the sale of cigarettes; amending K.S.A. 50-6a04";

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

LANCE KINZER JEFF WHITHAM JANICE L. PAULS Conferees on part of House

THOMAS C. OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate

Senator Owens moved the Senate adopt the Conference Committee Report on **SB 154**. On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 225**, 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 amendments, as follows: On page 1, in line 29, by striking "participation in" and inserting "a matching grant under"; following line 30, by inserting the following:

"(6) "Application" means an application for a matching grant under the program.";

Also on page 1, in line 31, by striking "(6)" and inserting "(7)";

On page 2, in line 5, by striking "for participation in the program"; in line 22, by striking "accounts" and inserting "applications"; in line 32, by striking "participant" and inserting "application";

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

TERRIE HUNTINGTON MARC RHOADES ANN E. MAH Conferees on part of House

JEAN KURTIS-SCHODORF JOHN VRATIL ANTHONY HENSLEY Conferees on part of Senate

Senator Schodorf moved the Senate adopt the Conference Committee Report on SB 225.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2008**, submits the following report:

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

On page 1, by striking all in lines 17 through 43;

On page 2, by striking all in lines 1 through 43;

On page 3, by striking all in lines 1 through 27; following line 27 by inserting:

"Section 1. (a) The practice of the healing arts shall not be construed to include any person administering epinephrine in emergency situations to a student or a member of a school staff if: (1) The person administering the epinephrine reasonably believes that the student or staff member is exhibiting the signs and symptoms of an anaphylactic reaction; (2) a physician has authorized, in writing, the school to maintain a stock supply of epinephrine; and (3) the epinephrine is administered at school, on school property or at a school-sponsored event.

(b) Any person who gratuitously and in good faith renders emergency care or treatment through the administration of epinephrine to a student or a member of a school staff at school, on school property or at a school-sponsored event shall not be held liable for any civil damages as a result of such care or administration or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.

Sec. 2. Any accredited school may maintain an epinephrine kit. An epinephrine kit may consist of one or more doses of epinephrine. Epinephrine from an epinephrine kit shall be used only in emergency situations when the person administering the epinephrine reasonably believes that the signs and symptoms of an anaphylactic reaction are occurring and if administered at school, on school property or at a school-sponsored event. A school may not maintain an epinephrine kit unless the school has consulted with a pharmacist licensed

by the state board of pharmacy. The consultant pharmacist shall have supervisory responsibility for maintaining the epinephrine kit. The consultant pharmacist shall be responsible for developing procedures, proper control and accountability for the epinephrine kit. Periodic physical inventory of the epinephrine kit shall be required. An epinephrine kit shall be maintained under the control of the consultant pharmacist.

Sec. 3. The state board of pharmacy may adopt any rules and regulations which the board deems necessary in relation to the maintenance of epinephrine kits under section 2, and amendments thereto.";

By renumbering the remaining section;

In the title, in line 13, by striking all after "kits"; in line 14, by striking all before the period;

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

JEAN SCHODORF JOHN VRATIL ANTHONY HENSLEY Conferees on part of Senate

DEENA HORST DON HILL ED TRIMMER Conferees on part of House

Senator Schodorf moved the Senate adopt the Conference Committee Report on **Sub HB 2008**.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.

The Conference Committee report was adopted.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Marshall introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1872-

A RESOLUTION in memory of Charles R. "Dick" Webb.

WHEREAS, Charles R. "Dick" Webb of Pittsburg, Kansas, passed away on March 23, 2009, with his family by his side; and

WHEREAS, Mr. Webb was born on December 10, 1938, in Independence, Kansas to Jesse and Grace Lewis Webb. Mr. Webb attended Horace Mann Elementary School, Lakeside Junior High School and graduated from Pittsburg High School in 1956. He graduated from Kansas State Teachers College in Pittsburg in 1962 with a Bachelor of Science in Business Administration; and

WHEREAS, Mr. Webb married Kaye Lynne Johnson in Miami, Oklahoma on April 6, 1957; and

WHEREAS, Mr. Webb was a member of the Kansas Army National Guard from 1956-1965, where he achieved the rank of First Sergeant; and

WHEREAS, Starting at his kitchen table with only eight employees, Mr. Webb founded and chaired the Watco Companies, Inc., a rail service provider in Pittsburg, Kansas. At the time of his passing, Watco employed over 2,000 people in 26 states and operated 3,900 miles of track, 20 short line railroads, 22 switching locations, 14 mechanical shops, 18 mobile mechanical repair locations and 11 trans-load and intermodal locations; and

WHEREAS, Some of the honors bestowed upon Mr. Webb include being named Distinguished Alumni from Pittsburg High School in 2003; receiving the Meritorious Achievement Award from Pittsburg State University in May 2006; and, on behalf of Watco, receiving the Governor's Award for Excellence for a Kansas Business in 2005, the highest honor the state gives to businesses; and

WHEREAS, The dedication and commitment with which Dick Webb lived his life not only impacted his family and his business, but serves as an example for all to live by: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor Charles "Dick" Webb for the many contributions he made to society and for the example he set in living his life and that we extend our deepest sympathy to his wife Kaye Lynne, his family and friends; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Bob Marshall.

On emergency motion of Senator Marshall SR 1872 was adopted unanimously.

Guests introduced and welcomed were Mr. Webb's wife, Kaye Lynne; daughter, Susan Lundy and son, Rick Webb.

Senators McGinn, Abrams, Donovan, Faust-Goudeau, Kelsey, Masterson, Petersen, Schodorf and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1873-

A RESOLUTION congratulating and commending

the Wichita Heights High School boys basketball team.

WHEREAS, The Wichita Heights High School Falcons won the 2009 Class 6A State Championship with a 73-58 victory over Southeast High School; and

WHEREAS, This championship was the first in any boys sport at Wichita Heights High School since 1977; and

WHEREAS, The Falcons finished the season with a 24-1 record, including a 16-0 mark in the city league, the first team to do so since 1994 and finished the season ranked in the top ten in the country by CBS Max Preps; and

WHEREAS, The team members are Seniors Dorrian Roberts, Austin Bahner, Thomas Bland and Steven VanLooy; Juniors Darrell Dempsey and Keith Riley; Sophomores Dreamius Smith, Evan Wessel, E.J. Dobbins and Jay Bradley; Freshmen Perry Ellis and Terrence Moore; and team managers Kyle Coffman, Aaron Roberts and Austin Sheppard; and

WHEREAS, The team was expertly coached by Head Coach Joe Auer and assistant coaches Ric Vix, Bryan Chadwick and Tyler Richardson; and

WHEREAS, The Falcons also earned a number of individual awards during their fantastic season. Freshman Perry Ellis was named Gatorade Player of the Year in Kansas, Coach Joe Auer was named the State Coach of the Year by the Wichita Eagle and Seniors Thomas Bland, Austin Bahner and Dorrian Roberts earned All-League and All-State honors; and

WHEREAS, The dedication and teamwork required to win a state championship make the Falcons accomplishments truly remarkable: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Wichita Heights High School boys basketball team for winning the 2009 Class 6A State Championship and that we wish them future success; and

Be it further resolved: That the Secretary of the Senate be directed to provide 18 enrolled copies of this resolution to Senator Carolyn McGinn.

On emergency motion of Senator McGinn SR 1873 was adopted unanimously.

Guests were team members: Dorrian Roberts, Austin Bahner, Thomas Bland, Steven VanLooy, Darrell Dempsey, Keith Riley, Dreamius Smith, Evan Wessel, E.J. Dobbins, Jay Bradley, Perry Ellis and Terrence Moore. Also in attendance were managers: Kyle Coffman, Aaron Roberts and Austin Sheppard, along with Head Coach Joe Auer and Assistant Coaches Ric Vix, Bryan Chadwick and Tyler Richardson.

REPORT ON ENGROSSED BILLS

H Sub for SB 91; SB 275 reported correctly engrossed April 2, 2009. Also, SB 29, SB 45, SB 53, SB 80, SB 237 correctly re-engrossed April 2, 2009.

COMMITTEE OF THE WHOLE

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

On motion of Senator Taddiken the following report was adopted:

HB 2130 be amended by adoption of the committee amendments, be further amended by motion of Senator Umbarger, on page 5, in line 1, by striking "subsection (a)"; in line 2, by striking "of", and **HB 2130** be passed as further amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and **HB 2130** was advanced to Final Action and roll call.

HB 2130, An Act relating to motor vehicles; concerning the use of safety belts; amending K.S.A. 2008 Supp. 8-2503 and 8-2504 and repealing the existing sections.

On roll call, the vote was: Yeas 28, Nays 11, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil.

Nays: Abrams, Bruce, Huelskamp, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger, Wagle.

Absent or Not Voting: Wysong.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I reluctantly vote yes for **HB 2130**—reluctantly because of the many phone calls I received stating that this bill would be an attempt to exercise racial profiling. I want all citizens to abide by the law and buckle up for safety, and I do believe that seat belts save lives but I also believe this bill will have unintended consequences. It will give police officers who already have a tendency to commit racial profiling another excuse to stop drivers who otherwise are obeying the law. I also believe that there will be unnecessary stops of drivers in old vehicles without shoulder straps. But this bill will save lives and I therefore vote yes.—OLETHA FAUST-GOUDEAU.

Senator Haley requests the record to show he concurs with the "Explanation of Vote" offered by Senator Faust-Goudeau on HB 2130.

MR. PRESIDENT: I reluctantly vote "AYE" on **HB 2130.** The concept of "pretextual stops" (or detaining a driver by law enforcement on the *pretense* of wrong doing) is a familiar theme in Kansas and even in our culturally diverse America whose drivers come from different races; different counties and states; different religions.

Racial and other profiling by law enforcement is illegal but unenforced. For now, **SB 179**, (which languishes on General Orders below the line), would adjust some of these injustices which costs otherwise innocent motorists thousands of dollars and hundreds of hours of wasted time every year. This harassment by those sworn to *uphold* our laws is shameful; a state and a national disgrace. But **HB 2130** will save lives. Seat belts save lives, and public safety here trumps the erosions of probable cause that will result from the passage of **HB 2130**.—DAVID HALEY

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 171**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

STEVE HUEBERT SCOTT SCHWAB Conferees on part of House

VICKI SCHMIDT PAT APPLE OLETHA FAUST-GOUDEAU Conferees on part of Senate

On motion of Senator V. Schmidt, the Senate adopted the conference committee report on **SB 171**, and requested a new conference committee be appointed.

The President appointed Senators V. Schmidt, Apple and Faust-Goudeau as a second Conference Committee on the part of the Senate on SB 171.

MESSAGE FROM THE HOUSE

Announcing passage of House Substitute for SB 257.

The House adopts the conference committee report on SB 68.

The House adopts the conference committee report on House Substitute for SB 98.

The House adopts the conference committee report on SB 134.

The House adopts the conference committee report on **House Substitute for SB 145**. The House adopts the Conference Committee Report to agree to disagree on **HB 2172** and has appointed Representatives Carlson, King and Menghini as second conferees on the part of the House.

On motion of Senator D. Schmidt, the Senate recessed until 3:00 p.m.

AFTERNOON SESSION

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

CHANGE OF REFERENCE

The President withdrew **HB 2032** from the Committee on **Local Government**, and referred the bill to the Committee on **Natural Resources**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2052**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

RUTH TEICHMAN KARIN BROWNLEE CHRIS STEINEGER Conferees on part of Senate

CLARK SCHULTZ VIRGIL PECK, JR. Conferees on part of House

On motion of Senator Teichman, the Senate adopted the conference committee report on **HB 2052**, and requested a new conference committee be appointed.

The President appointed Senators Teichman, Brownlee and Steineger as a second Conference Committee on the part of the Senate on **HB 2052**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2214**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

RUTH TEICHMAN KARIN BROWNLEE CHRIS STEINEGER Conferees on part of Senate

CLARK SCHULTZ VIRGIL PECK, JR. Conferees on part of House

On motion of Senator Teichman, the Senate adopted the conference committee report on **HB 2214**, and requested a new conference committee be appointed.

The President appointed Senators Teichman, Brownlee and Steineger as a second Conference Committee on the part of the Senate on **HB 2214**.

REPORTS OF STANDING COMMITTEES

Committee on **Natural Resources** recommends **HB 2032**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2032," as follows:

"SENATE Substitute for HOUSE BILL No. 2032

By Committee on Natural Resources

"AN ACT enacting the Kansas surface owner notice act; relating to oil and gas operations; state corporation commission; amending K.S.A. 55-155, 55-173 and K.S.A. 2008 Supp. 55-151 and repealing the existing sections.";

and the substitute bill be passed.

Committee on Ways and Means recommends HB 2331, as amended by House Committee, be passed.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 35**, 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 amendments, as follows:

On page 2, in line 2, by striking "2011" and inserting "2010"; in line 9, by striking "10%" and inserting "5%"; in line 10, by striking "13%" and inserting "6%"; by striking all in lines 13 through 15 and inserting the following:

"Sec. 2. On and after July 1, 2009, K.S.A. 2008 Supp. 12-17,166 is hereby amended to read as follows: 12-17,166. (a) One or more projects may be undertaken by a city or county within an established STAR bond project district. Any city or county proposing to undertake a STAR bond project, shall prepare a STAR bond project plan in consultation with the planning commission of the city, and in consultation with the planning commission of the county, if any, if such project is located wholly outside the boundaries of the city. Any such project plan may be implemented in separate development stages.

(b) Any city or county proposing to undertake a STAR bond project within a STAR bond project district established pursuant to K.S.A. 2008 Supp. 12-17,165, and amendments thereto, shall prepare a feasibility study. The feasibility study shall contain the following:

(1) Whether a STAR bond project's revenue and tax increment revenue and other available revenues under K.S.A. 2008 Supp. 12-17,169, and amendments thereto, are expected to exceed or be sufficient to pay for the project costs;

(2) the effect, if any, a STAR bond project will have on any outstanding special obligation bonds payable from the revenues described in K.S.A. 2008 Supp. 12-17,169, and amendments thereto;

(3) a statement of how the jobs and taxes obtained from the STAR bond project will contribute significantly to the economic development of the state and region;

- (4) visitation expectations;
- (5) the unique quality of the project;
- (6) economic impact study;

(7) market study;

(8) market impact study;

(9) integration and collaboration with other resources or businesses;

(10) the quality of service and experience provided, as measured against national consumer standards for the specific target market;

(11) project accountability, measured according to best industry practices;

(12) the expected return on state and local investment that the project is anticipated to produce;

(13) a statement concerning whether a portion of the local sales and use taxes are pledged to other uses and are unavailable as revenue for the STAR bond project. If a portion of local sales and use taxes is so committed, the applicant shall describe the following:

(A) The percentage of city and county sales and use taxes collected that are so committed; and

(B) the date or dates on which the city and county sales and use taxes pledged to other uses can be pledged for repayment of bonds; and

(14) an anticipated principal and interest payment schedule on the bond issue.

The failure to include all information enumerated in this subsection in the feasibility study for a STAR bond project shall not affect the validity of bonds issued pursuant to this act.

(c) If the city or county determines the project is feasible, the project plan shall include:

(1) A summary of the feasibility study done as defined in subsection (b) of this section, and amendments thereto;

(2) a reference to the district plan established under K.S.A. 2008 Supp. 12-17,165, and amendments thereto, that identifies the project area that is set forth in the project plan that is being considered;

(3) a description and map of the project area to be redeveloped;

(4) the relocation assistance plan as described in K.S.A. 2008 Supp. 12-17,172, and amendments thereto;

(5) $\,$ a detailed description of the buildings and facilities proposed to be constructed or improved in such area; and

(6) any other information the governing body of the city or county deems necessary to advise the public of the intent of the project plan.

(d) A copy of the STAR bond project plan prepared by a city shall be delivered to the board of county commissioners of the county and the board of education of any school district levying taxes on property within the STAR bond project area. A copy of the STAR bond project plan prepared by a county shall be delivered to the board of education of any school district levying taxes on property within the STAR bond project area.

(e) Upon a finding by the planning commission that the STAR bond project plan is consistent with the intent of the comprehensive plan for the development of the city, and a finding by the planning commission of the county, if any, with respect to a STAR bond project located wholly outside the boundaries of the city, that the STAR bond project plan is consistent with the intent of the comprehensive plan for the development of the county, the governing body of the city or county shall adopt a resolution stating that the city or county is considering the adoption of the STAR bond project plan. Such resolution shall:

(1) Give notice that a public hearing will be held to consider the adoption of the STAR bond project plan and fix the date, hour and place of such public hearing;

(2) describe the boundaries of the STAR bond project district within which the STAR bond project will be located and the date of establishment of such district;

(3) $\,$ describe the boundaries of the area proposed to be included within the STAR bond project area; and

(4) state that the STAR bond project plan, including a summary of the feasibility study, market study, relocation assistance plan and financial guarantees of the prospective developer and a description and map of the area to be redeveloped or developed are available for inspection during regular office hours in the office of the city clerk or county clerk, respectively.

(f) (1) The date fixed for the public hearing to consider the adoption of the STAR bond project plan shall be not less than 30 nor more than 70 days following the date of the adoption of the resolution fixing the date of the hearing.

(2) A copy of the city or county resolution providing for the public hearing shall be by certified mail, return receipt requested, sent by the city to the board of county commissioners of the county and by the city or county to the board of education of any school district levying taxes on property within the proposed STAR bond project area. Copies also shall be sent by certified mail, return receipt requested to each owner and occupant of land within the proposed STAR bond project area not more than 10 days following the date of the adoption of the resolution. The resolution shall be published once in the official city or county newspaper not less than one week nor more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the area in sufficient detail to advise the reader of the published with the resolution.

(3) At the public hearing, a representative of the city or county shall present the city's or county's proposed STAR bond project plan. Following the presentation of the STAR bond project area, all interested persons shall be given an opportunity to be heard. The governing body for good cause shown may recess such hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

(g) The public hearing records and feasibility study shall be subject to the open records act, K.S.A. 45-215, and amendments thereto.

(h) Upon conclusion of the public hearing, the governing body may adopt the STAR bond project plan by ordinance or resolution passed upon a two-thirds vote of the members.

(i) After the adoption by the city or county governing body of a STAR bond project plan, the clerk of the city or county shall transmit a copy of the description of the land within the STAR bond project district, a copy of the ordinance or resolution adopting the plan and a map or plat indicating the boundaries of the district to the clerk, appraiser and treasurer of the county in which the district is located and to the governing bodies of the county and school district which levy taxes upon any property in the district. Such documents shall be transmitted following the adoption or modification of the plan or a revision of the plan on or before January 1 of the year in which the increment is first allocated to the taxing subdivision.

(j) The appraiser of any county in which a STAR bond project district is authorized by a city or county shall certify the amount of such increase in assessed valuation of real and personal property within the STAR bond project district to the county clerk on or before July 1 of each year.

 $\frac{1}{k}$ If the STAR bond project plan is approved, the feasibility study shall be supplemented to include a copy of the minutes of the governing body meetings of any city or county whose bonding authority will be utilized in the STAR bond project, evidencing that a STAR bond project plan has been created, discussed and adopted by the city or county in a regularly scheduled open public meeting.

(1) (k) Any substantial changes as defined in K.S.A. 2008 Supp. 12-17,162, and amendments thereto, to the STAR bond project plan as adopted shall be subject to a public hearing following publication of notice thereof at least twice in the official city or county newspaper.

(m) (l) Any STAR bond project shall be completed within 20 years from the date of the approval of the STAR bond project plan. The maximum maturity on bonds issued to finance projects pursuant to this act shall not exceed 20 years.

 $\frac{(n)}{(m)}$ Kansas resident employees shall be given priority consideration for employment in construction projects located in a STAR bond project area.

 $\langle \mathbf{o} \rangle$ (*n*) Any developer of a STAR bond project shall commence work on the project within two years from the date of adoption of the STAR bond project plan. Should the developer fail to commence work on the STAR bond project within the two-year period, funding for such project shall cease and the developer of such project or complex shall have one year to appeal to the secretary for reapproval of such project and the funding for it. Should the project be reapproved, the two-year period for commencement shall apply.

Sec. 3. From and after July 1, 2009, K.S.A. 2008 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less

amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A refund fund, designated as "sales tax refund fund" not to exceed \$100,000 shall be set apart and maintained by the director from sales tax collections and estimated tax collections and held by the state treasurer for prompt payment of all sales tax refunds including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act. In the event such fund as established by this section is, at any time, insufficient to provide for the payment of refunds due claimants thereof, the director shall certify the amount of additional funds required to the director of accounts and reports who shall promptly transfer the required amount from the state general fund to the sales tax refund fund, and notify the state treasurer, who shall make proper entry in the records.

(c) (1) The state treasurer shall credit $\frac{5}{3}$ s of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit $\frac{5}{106}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) On July 1, 2006, the state treasurer shall credit $^{19}265$ of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) On July 1, 2007, the state treasurer shall credit ¹³/₁₀₆ of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment STAR bond project district occupied by a redevelopment STAR bond project or taxpayers doing business with such entity financed by a special STAR bond project as defined in K.S.A. 12-1770a 2008 Supp. 12-17,162, and amendments thereto, that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state or the project was designated as a special STAR bond project as defined in K.S.A. 12-1770a 2008 Supp. 12-17,162, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment or special STAR bond project.

Sec. 4. From and after July 1, 2009, K.S.A. 2008 Supp. 79-3620b is hereby amended to read as follows: 79-3620b. Moneys credited to the city bond finance fund in accordance with the provisions of subsections (d) of K.S.A. 79-3620 and (d) of K.S.A. 79-3710, and amendments thereto, shall be distributed biannually to cities which have issued special obligation bonds to finance, in whole or in part, a redevelopment STAR bond project which was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 12-1770a 2008 Supp. 12-17,162, and amendments thereto. The state treasurer shall make such biannual distributions on such dates as mutually agreed to by the city and the state treasurer. The total of all distributions under this section shall not exceed an amount determined to be sufficient to retire the principal and interest payable on such special obligation bonds. Moneys paid to cities hereunder shall be deposited in a special fund of the city to pay the costs described herein.

Sec. 5. K.S.A. 2008 Supp. 10-1009 is hereby repealed.

Sec. 6. From and after July 1, 2009, K.S.A. 2008 Supp. 12-17,166, 79-3620 and 79-3620b are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.";

In the title, in line 10, by striking all after "concerning"; in line 11, by striking all before the period and inserting "bonds; pertaining to interest rates; pertaining to bond revenue sources; amending K.S.A. 2008 Supp. 10-1009, 12-17,166, 79-3620 and 79-3620b and repealing the existing sections";

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

SHARON SCHWARTZ MITCH HOLMES DELIA GARCIA Conferees on part of House

DAVID WYSONG JULIA LYNN TOM HOLLAND Conferees on part of Senate

Senator Wysong moved the Senate adopt the Conference Committee Report on **SB 35**. On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Huelskamp, Ostmeyer, Pilcher-Cook, Pyle.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 68**, 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 amendments, as follows:

On page 1, by striking all in lines 17 through 43;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 15; following line 15, by inserting the following:

"Section 1. K.S.A. 20-2608 is hereby amended to read as follows: 20-2608. (a) Any judge may retire upon reaching age 65 or age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the judge is equal to or more than 85 and upon making application for retirement to the board. Any judge upon reaching age 75 shall retire, except that any duly elected or appointed justice of the supreme court shall retire upon reaching age 70 when any judge attains the age of 75, such judge desires, finish serving the term during which subsection shall receive retirement annuities as provided in K.S.A. 20-2610, and amendments thereto, except, that when any justice of the supreme court attains the age of 70, such judge may, if such judge term during which such judge attains the age of 70.

(b) Notwithstanding the provisions of subsection (a), any judge who is otherwise eligible to retire may retire upon reaching age 60 and, having total years of service of not less than 10 years, and upon making application to the board. Any such judge who retires on and after July 1, 1993, and prior to attaining the age of 62 shall receive a retirement annuity pursuant to K.S.A. 20-2610, and amendments thereto, based upon the normal retirement age of 62 reduced by an amount equal to the product of (1) such annual retirement annuity payable had the judge retired on the normal retirement date, multiplied by (2) the product

of .2% multiplied by the number of months' difference, to the nearest whole month, between the judge's attained age at the time of retirement and age 62.

(c) Notwithstanding the provisions of subsection (a), on or after July 1, 1993, any judge who is otherwise eligible to retire may retire upon reaching age 55 with the completion of 10 years of service, and upon making application to the board. Any such judge who retires prior to attaining the age of 62 pursuant to this subsection shall receive a retirement annuity pursuant to K.S.A. 20-2610, and amendments thereto, based upon the normal retirement age of 62 reduced by an amount equal to the total of: (1) (A) The product of such annual retirement annuity payable had the judge retired on the normal retirement date, multiplied by the number of months' difference, to the nearest whole month, between the member's attained age at the time of retirement and age 60; and

(2) for any judge who retired on or after July 1, 1993, the product of such annual retirement annuity payable had the judge retired on the normal retirement date, multiplied by 4.8%.

The provisions of this subsection apply to any judge who retires before the age of 62 and has attained age 55 but has not attained age 60, with the completion of 10 years of service.";

Also on page 4, in line 16, by striking all after "3." and inserting "K.S.Á. 20-2608 is";

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 12, by striking all after "concerning"; by striking all in line 13; in line 14, by striking all before the period and inserting "judges and justices; relating to retirement age; amending K.S.A. 20-2608 and repealing the existing section";

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

LANCE KINZER JEFF WHITHAM JANICE L. PAULS Conferees on part of House

THOMAS C. OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate

Senator Owens moved the Senate adopt the Conference Committee Report on **SB 68**. On roll call, the vote was: Yeas 31, Nays 7, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Huelskamp, Kelsey, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Wagle.

Nays: Francisco, Hensley, Holland, Kelly, Kultala, Schmidt D, Vratil.

Absent or Not Voting: Steineger, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 98**, 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 as House Substitute for Senate Bill No. 98, as follows:

On page 1, by striking all in lines 14 through 29, and by inserting the following:

"Section 1. K.S.A. 2008 Supp. 72-6431 is hereby amended to read as follows: 72-6431. (a) The board of each district shall levy an ad valorem tax upon the taxable tangible property of the district in the school years specified in subsection (b) for the purpose of:

(1) Financing that portion of the district's general fund budget which is not financed from any other source provided by law;

(2) paying a portion of the costs of operating and maintaining public schools in partial fulfillment of the constitutional obligation of the legislature to finance the educational interests of the state; and

(3) with respect to any redevelopment district established prior to July 1, 1997, pursuant to K.S.A. 12-1771, and amendments thereto, paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district.

(b) The tax required under subsection (a) shall be levied at a rate of 20 mills in the school year 2007-2008 2009-2010 and school year 2008-2009 2010-2011.

(c) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be deposited in the general fund of the district.

(d) On June 6 of each year, the amount, if any, by which a district's local effort exceeds the amount of the district's state financial aid, as determined by the state board, shall be remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(e) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments thereto.

Sec. 2. K.S.A. 2008 Supp. 79-201x is hereby amended to read as follows: 79-201x. For taxable years 2007 and 2008 2009 and 2010, the following described property, to the extent herein specified, shall be and is hereby exempt from the property tax levied pursuant to the provisions of K.S.A. 72-6431, and amendments thereto: Property used for residential purposes to the extent of \$20,000 of its appraised valuation.

Sec. 3. K.S.A. 2008 Supp. 79-503a is hereby amended to read as follows: 79-503a. "Fair market value" means the amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion. In the determination of fair market value of any real property which is subject to any special assessment, such value shall not be determined by adding the present value of the special assessment to the sales price. For the purposes of this definition it will be assumed that consummation of a sale occurs as of January 1.

Sales in and of themselves shall not be the sole criteria of fair market value but shall be used in connection with cost, income and other factors including but not by way of exclusion:

(a) The proper classification of lands and improvements;

(b) the size thereof;

(c) the effect of location on value;

 $\left(d\right)$ depreciation, including physical deterioration or functional, economic or social obsolescence;

(e) cost of reproduction of improvements;

(f) productivity taking into account all restrictions imposed by the state or federal government and local governing bodies, including, but not limited to, restrictions on property rented or leased to low income individuals and families as authorized by section 42 of the federal internal revenue code of 1986, as amended;

(g) earning capacity as indicated by lease price, by capitalization of net income or by absorption or sell-out period;

(h) rental or reasonable rental values or rental values restricted by the state or federal government or local governing bodies, including, but not limited to, restrictions on property rented or leased to low income individuals and families, as authorized by section 42 of the federal internal revenue code of 1986, as amended;

(i) sale value on open market with due allowance to abnormal inflationary factors influencing such values;

(j) restrictions or requirements imposed upon the use of real estate by the state or federal government or local governing bodies, including zoning and planning boards or commissions, and including, but not limited to, restrictions or requirements imposed upon the use of real estate rented or leased to low income individuals and families, as authorized by section 42 of the federal internal revenue code of 1986, as amended; and

(k) comparison with values of other property of known or recognized value. The assessment-sales ratio study shall not be used as an appraisal for appraisal purposes.

The appraisal process utilized in the valuation of all real and tangible personal property for ad valorem tax purposes shall conform to generally accepted appraisal procedures which are adaptable to mass appraisal and consistent with the definition of fair market value unless otherwise specified by law.

New Sec. 4. It is the purpose of the amendments enacted in this legislation to K.S.A. 79-5a01 to carry out the mandate of the electorate of the state of Kansas who in 1992 amended Section 1 of Article 11 of the Constitution of the state of Kansas to effectuate the taxation of public utility inventories, in response to an appellate decision holding that natural gas owned by public utilities and stored for resale comes within the exemption from ad valorem taxation afforded to merchants' and manufacturers' inventories. The Legislature recognizes that the state has a number of underground formations that are ideal for the storage of natural gas during periods of peak demand and thereby contributes to their economic viability. The Legislature further recognizes that the state and its political subdivisions provide valuable governmental services that protects the natural gas and its free flow to and from these formations for which such owners, brokers and marketers of natural gas and its free flow to and from these formations for which such owners, brokers and marketers of natural gas and its free flow to and from these formations for which such owners, brokers and marketers of natural gas and its free flow to and from these formations for which such owners, brokers and marketers of natural gas and its legislation to K.S.A. 79-5a01.

Sec. 5. K.S.A. 2008 Supp. 79-5a01 is hereby amended to read as follows: 79-5a01. (a) As used in this act, the terms "public utility" or "public utilities" means every individual, company, corporation, association of persons, brokers, *marketers*, lessees or receivers that now or hereafter own, control and hold for resale stored broker or market natural gas *inventories stored for resale* in an underground formation in this state, or now or hereafter are in control, manage or operate a business of:

(1) A railroad or railroad corporation if such railroad or railroad corporation owns or holds, by deed or other instrument, an interest in right-of-way, track, franchise, roadbed or trackage in this state;

(2) transmitting to, from, through or in this state telegraphic messages;

(3) transmitting to, from, through or in this state telephonic messages;

(4) transporting or distributing to, from, through or in this state natural gas, oil or other commodities in pipes or pipelines, or engaging primarily in the business of storing natural gas in an underground formation;

(5) generating, conducting or distributing to, from, through or in this state electric power;

(6) transmitting to, from, through or in this state water if for profit or subject to regulation of the state corporation commission; and

(7) transporting to, from, through or in this state cargo or passengers by means of any vessel or boat used in navigating any of the navigable watercourses within or bordering upon this state.

(b) The terms "public utility" or "public utilities" shall not include: (1) Rural water districts established under the laws of the state of Kansas; or (2) any individual, company, corporation, association of persons, lessee or receiver owning or operating an oil or natural gas production gathering line which is situated within one county in this state and does not cross any state boundary line; (3) any individual, company, corporation, association of persons, lessee or receiver owning any vessel or boat operated upon the surface of any mammade waterway located entirely within one county in the state; or (4) for all taxable years commencing after December 31, 1998, any natural gas distribution system which is owned and operated by a nonprofit public utility described by K.S.A. 66-104c, and amendments thereto, and which is operated predominantly for the purpose of providing fuel for the irrigation of land devoted to agricultural use.

(c) The provisions of subsection (a) as amended by this act shall be applicable to all taxable years commencing after December $31, \frac{2003}{2008}.$

Sec. 6. K.S.A. 2008 Supp. 72-6431, 79-201x, 79-503a and 79-5a01 are hereby repealed.";

And by renumbering section 4 as section 7;

On page 1, in the title, in line 9, by striking all after "concerning"; by striking all in lines 10 and 11 and inserting "property taxation; relating to statewide levy for public schools, exemption therefrom; fair market value for certain rental property; public utilities, natural gas inventories; amending K.S.A. 2008 Supp. 72-6431, 79-201x, 79-503a and 79-5a01 and repealing the existing sections.";

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

RICHARD CARLSON JEFF KING JULIE MENGHINI Conferees on part of House

LESLIE DONOVAN, SR. DEREK SCHMIDT TOM HOLLAND Conferees on part of Senate

Senator Donovan moved the Senate adopt the Conference Committee Report on **H Sub** for **SB 98**.

On roll call, the vote was: Yeas 37, Nays 0, Present and Passing 1, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Present and Passing: Francisco.

Absent or Not Voting: Steineger, Wysong.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on the conference committee report on **SB 98.** I support renewing the mill levy for school district funding. However, I object to the provisions of **SB 312** in this bill which will allow for property taxes to be collected on stored natural gas inventories. Even though the tax revenue is desired, we are on shaky legal ground to enact this property tax and will likely face additional lawsuits.—KARIN BROWNLEE

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 134**, 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 amendments, as follows:

On page 1, by striking all in lines 19 through 43;

By striking all on pages 2 through 19;

On page 20, by striking all in lines 1 through 12 and inserting the following:

"Section 1. K.S.A. 2008 Supp. 38-2202 is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

(a) "Abandon" or "abandonment" means to forsake, desert or, without making appropriate provision for substitute care, cease providing care for the child.

(b) "Adult correction facility" means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.

(c) "Aggravated circumstances" means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

(d) "Child in need of care" means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 2008 Supp. 38-2242, and amendments thereto, who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;

(2) is without the care or control necessary for the child's physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;

(5) has been abandoned or does not have a known living parent;

(6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;

(7) except in the case of a violation of K.S.A. 21-4204a, 41-727, subsection (j) of K.S.A. 74-8810 or subsection (m) or (n) of K.S.A. 79-3321, and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105, and amendments thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian;

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee;

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused;

(12) while less than 10 years of age commits the offense defined in K.S.A. 21-4204a, and amendments thereto; or

(13) has had a permanent custodian appointed and the permanent custodian is no longer able or willing to serve.

(e) "Citizen review board" is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 2008 Supp. 38-2207 and 38-2208, and amendments thereto.

(f) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2008 Supp. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

(g) "Custody" whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(h) "Extended out of home placement" means a child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the home.

(i) "Educational institution" means all schools at the elementary and secondary levels.

(j) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and amendments thereto.

(k) "Harm" means physical or psychological injury or damage.

(l) "Interested party" means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 2008 Supp. 38-2241, and amendments thereto or Indian tribe seeking to intervene that is not a party.

(m) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(n) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which must not be a jail.

(o) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(p) "Kinship care" means the placement of a child in the home of the child's relative or in the home of another adult with whom the child or the child's parent already has a close emotional attachment.

(q) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(r) "Multidisciplinary team" means a group of persons, appointed by the court under K.S.A. 2008 Supp. 38-2228, and amendments thereto, which has knowledge of the circumstances of a child in need of care.

(s) "Neglect" means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child's parents or other custodian. Neglect may include, but shall not be limited to:

(1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;

(2) failure to provide adequate supervision of a child or to remove a child from a situation which requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to subsection (a)(2) of K.S.A. 2008 Supp. 38-2217, and amendments thereto.

(t) "Parent" when used in relation to a child or children, includes a guardian and every person who is by law liable to maintain, care for or support the child.

(u) "Party" means the state, the petitioner, the child, any parent of the child and an Indian child's tribe intervening pursuant to the Indian child welfare act.

(v) "Permanency goal" means the outcome of the permanency planning process which may be reintegration, adoption, appointment of a permanent custodian or another planned permanent living arrangement.

(w) "Permanent custodian" means a judicially approved permanent guardian of a child pursuant to K.S.A. 2008 Supp. 38-2272, and amendments thereto.

(x) "Physical, mental or emotional abuse" means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered.

 $(y)\,$ "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(z) "Relative" means a person related by blood, marriage or adoption but, when referring to a relative of a child's parent, does not include the child's other parent.

(aa) "Secretary" means the secretary of social and rehabilitation services or the secretary's designee.

(bb) "Secure facility" means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

(cc) "Sexual abuse" means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include allowing, permitting or encouraging a child to engage in prostitution or to be photographed, filmed or depicted in pornographic material.

(dd) "Shelter facility" means any public or private facility or home other than a juvenile detention facility that may be used in accordance with this code for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(ee) "Transition plan" means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

(cc) (ff) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 2. K.S.A. 2008 Supp. 38-2203 is hereby amended to read as follows: 38-2203. (a) Proceedings concerning any child who may be a child in need of care shall be governed by this code, except in those instances when the court knows or has reason to know that an Indian child is involved in the proceeding, in which case, the Indian child welfare act of 1978 (25 U.S.C. §1901 et seq.) applies. The Indian child welfare act may apply to: The filing to initiate a child in need of care proceeding (K.S.A. 2008 Supp. 38-2234, and amendments thereto); ex parte custody orders (K.S.A. 2008 Supp. 38-2242, and amendments thereto); temporary custody hearing (K.S.A. 2008 Supp. 38-2243, and amendments thereto); adjudication (K.S.A. 2008 Supp. 38-2247, and amendments thereto); burden of proof (K.S.A. 2008 Supp. 38-2250, and amendments thereto); disposition (K.S.A. 2008 Supp. 38-2255, and amendments thereto); permanency hearings (K.S.A. 2008 Supp. 38-2264, and amendments thereto); termination of parental rights (K.S.A. 2008 Supp. 38-2267, 38-2268 and 38-2269, and amendments thereto); establishment of permanent custodianship (K.S.A. 2008 Supp. 38-2268 and 38-2272, and amendments thereto); the placement of a child in any foster, pre-adoptive and adoptive home and the placement of a child in a guardianship arrangement under chapter 59, article 30 of the Kansas Statutes Annotated, and amendments thereto.

(b) Subject to the uniform child custody jurisdiction and enforcement act, K.S.A. 38-1336 through 38-1377, and amendments thereto, the district court shall have original jurisdiction of proceedings pursuant to this code.

(c) The court acquires jurisdiction over a child by the filing of a petition pursuant to this code or upon issuance of an ex parte order pursuant to K.S.A. 2008 Supp. 38-2242, and amendments thereto. When the court acquires jurisdiction over a child in need of care, jurisdiction may continue until the child has: (1) Attained the age of 21 years Become 18 years of age, or until June 1 of the school year during which the child became 18 years of age if the child is still attending high school unless there is no court approved transition plan, in which event jurisdiction may continue until a transition plan is approved by the court or until the child reaches the age of 21; (2) been adopted; or (3) been discharged by the jurisdiction of the court case. The court shall give notice of the request to all parties and 30 days after receipt of the request, jurisdiction will cease.

(d) When it is no longer appropriate for the court to exercise jurisdiction over a child, the court, upon its own motion or the motion of a party or interested party at a hearing or upon agreement of all parties or interested parties, shall enter an order discharging the child. Except upon request of the child pursuant to subsection (c), the court shall not enter an order discharging a child until June 1 of the school year during which the child becomes 18 years of age if the child is in an out-of-home placement, is still attending high school and has not completed the child's high school education.

(e) When a petition is filed under this code, a person who is alleged to be under 18 years of age shall be presumed to be under that age for the purposes of this code, unless the contrary is proved.

Sec. 3. K.S.A. 2008 Supp. 38-2232 is hereby amended to read as follows: 38-2232. (a) To the extent possible, when any law enforcement officer takes into custody a child under the age of 18 years without a court order, the child shall forthwith be delivered to the custody of the child's parent or other custodian unless there are reasonable grounds to believe that such action would not be in the best interests of the child. Except as provided in subsection (b), if the child is not delivered to the custody of the child's parent or other custodian, the child shall forthwith be delivered to a facility or person designated by the secretary, a shelter facility designated by the court, court services officer, juvenile intake and assessment worker, licensed attendant care center or other person or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to a facility or person designated by the secretary. If, after delivery of the child to a shelter facility, the person in charge of the shelter facility at that time and the law enforcement officer determine that the child will not remain in the shelter facility and if the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2008 Supp. 38-2202, and amendments thereto, the law enforcement officer shall deliver the child to a juvenile detention facility or other secure facility, designated by the court, where the child shall be detained for not more than 24 hours, excluding Saturdays, Sundays and legal holidays. No child taken into custody pursuant to this code shall be placed in a juvenile detention facility or other secure facility, except as authorized by this section and by K.S.A. 2008 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto. It shall be the duty of the law enforcement officer to furnish to the county or district attorney, without unnecessary delay, all the information in the possession of the officer pertaining to the child, the child's parents or other persons interested in or likely to be interested in the child and all other facts and circumstances which caused the child to be taken into custody.

(b) When any law enforcement officer takes into custody any child as provided in subsection (b)(2) of K.S.A. 2008 Supp. 38-2231, and amendments thereto, proceedings shall be initiated in accordance with the provisions of the interstate compact on juveniles, K.S.A. 38-1001 et seq., and amendments thereto, or K.S.A. 2008 Supp. 38-1008, and amendments thereto, when effective. Any child taken into custody pursuant to the interstate compact on juveniles may be detained in a juvenile detention facility or other secure facility.

(c) Whenever a child under the age of 18 years is taken into custody by a law enforcement officer without a court order and is thereafter placed as authorized by subsection (a), the facility or person shall, upon written application of the law enforcement officer, have physical custody and provide care and supervision for the child. The application shall state:

(1) The name and address of the child, if known;

(2) the names and addresses of the child's parents or nearest relatives and persons with whom the child has been residing, if known; and

(3) the officer's belief that the child is a child in need of care and that there are reasonable grounds to believe that the circumstances or condition of the child is such that the child would be harmed unless placed in the immediate custody of the shelter facility or other person.

(d) A copy of the application shall be furnished by the facility or person receiving the child to the county or district attorney without unnecessary delay.

(e) The shelter facility or other person designated by the court who has custody of the child pursuant to this section shall discharge the child not later than 72 hours following

admission, excluding Saturdays, Sundays and legal holidays, unless a court has entered an order pertaining to temporary custody or release.

(f) In absence of a court order to the contrary, the county or district attorney or the placing law enforcement agency shall have the authority to direct the release of the child at any time.

(g) When any law enforcement officer takes into custody any child as provided in subsection (d) of K.S.A. 2008 Supp. 38-2231, and amendments thereto, the child shall forthwith be delivered to the school in which the child is enrolled, any location designated by the school in which the child is enrolled or the child's parent or other custodian.

Sec. 4. K.S.A. 2008 Supp. 38-2242 is hereby amended to read as follows: 38-2242. (a) The court, upon verified application, may issue ex parte an order directing that a child be held in protective custody and, if the child has not been taken into custody, an order directing that the child be taken into custody. The application shall state for each child:

(1) The applicant's belief that the child is a child in need of care;

(2) that the child is likely to sustain harm if not immediately removed from the home;

(3) $\;$ that allowing the child to remain in the home is contrary to the welfare of the child; and

(4) the facts relied upon to support the application, including efforts known to the applicant to maintain the family unit and prevent the unnecessary removal of the child from the child's home, or the specific facts supporting that an emergency exists which threatens the safety of the child.

(b) (1) The order of protective custody may be issued only after the court has determined there is probable cause to believe the allegations in the application are true. The order shall remain in effect until the temporary custody hearing provided for in K.S.A. 2008 Supp. 38-2243, and amendments thereto, unless earlier rescinded by the court.

(2) No child shall be held in protective custody for more than 72 hours, excluding Saturdays, Sundays and legal holidays, unless within the 72-hour period a determination is made as to the necessity for temporary custody in a temporary custody hearing. The time spent in custody pursuant to K.S.A. 2008 Supp. 38-2232, and amendments thereto, shall be included in calculating the 72-hour period. Nothing in this subsection shall be construed to mean that the child must remain in protective custody for 72 hours. If a child is in the protective custody of the secretary, the secretary shall allow at least one supervised visit between the child and the parent or parents within such time period as the child is in the is not in the best interest of the child.

(c) (1) Whenever the court determines the necessity for an order of protective custody, the court may place the child in the protective custody of:

(A) A parent or other person having custody of the child and may enter a restraining order pursuant to subsection (e);

(B) a person, other than the parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility;

(D) a shelter facility; or

(E) the secretary, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.

(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the protective custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the protective custody of the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2008 Supp. 38-2202, and amendments thereto, the child may be placed in a juvenile detention facility or other secure facility pursuant to an order of pro-

tective custody for a period of not to exceed 24 hours, excluding Saturdays, Sundays and legal holidays.

(d) The order of protective custody shall be served pursuant to subsection (a) of K.S.A. 2008 Supp. 38-2237, and amendments thereto, on the child's parents and any other person having legal custody of the child. The order shall prohibit the removal of the child from the court's jurisdiction without the court's permission.

(e) If the court issues an order of protective custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2008 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(f) (1) The court shall not enter an order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (A)(i) the child is likely to sustain harm if not immediately removed from the home;

(ii) allowing the child to remain in home is contrary to the welfare of the child; or

(iii) immediate placement of the child is in the best interest of the child; and

(B) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(2) Such findings shall be included in any order entered by the court. If the child is placed in the custody of the secretary, the court shall provide the secretary with a written copy of any orders entered upon making the order.

Sec. 5. K.S.A. 2008 Supp. 38-2243 is hereby amended to read as follows: 38-2243. (a) Upon notice and hearing, the court may issue an order directing who shall have temporary custody and may modify the order during the pendency of the proceedings as will best serve the child's welfare.

(b) A hearing pursuant to this section shall be held within 72 hours, excluding Saturdays, Sundays and legal holidays, following a child having been taken into protective custody.

(c) Whenever it is determined that a temporary custody hearing is required, the court shall immediately set the time and place for the hearing. Notice of a temporary custody hearing shall be given to all parties and interested parties.

(d) Notice of the temporary custody hearing shall be given at least 24 hours prior to the hearing. The court may continue the hearing to afford the 24 hours prior notice or, with the consent of the party or interested party, proceed with the hearing at the designated time. If an order of temporary custody is entered and the parent or other person having custody of the child has not been notified of the hearing, did not appear or waive appearance and requests a rehearing, the court shall rehear the matter without unnecessary delay.

(e) Oral notice may be used for giving notice of a temporary custody hearing where there is insufficient time to give written notice. Oral notice is completed upon filing a certificate of oral notice.

(f) The court may enter an order of temporary custody after determining there is probable cause to believe that the: (1) Child is dangerous to self or to others; (2) child is not likely to be available within the jurisdiction of the court for future proceedings; or (3) health or welfare of the child may be endangered without further care.

(g) (1) Whenever the court determines the necessity for an order of temporary custody the court may place the child in the temporary custody of:

(A) A parent or other person having custody of the child and may enter a restraining order pursuant to subsection (h);

(B)~ a person, other than the parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility;

(D) a shelter facility; or

(E) the secretary, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.

If the secretary presents the court with a plan to provide services to a child or family (2)which the court finds will assure the safety of the child, the court may only place the child in the temporary custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the temporary custody of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is presently alleged, but not vet adjudicated to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2008 Supp. 38-2202, and amendments thereto, the child may be placed in a juvenile detention facility or other secure facility, but the total amount of time that the child may be held in such facility under this section and K.S.A. 2008 Supp. 38-2242, and amendments thereto, shall not exceed 24 hours, excluding Saturdays, Sundays and legal holidays. The order of temporary custody shall remain in effect until modified or rescinded by the court or an adjudication order is entered but not exceeding 60 days, unless good cause is shown and stated on the record.

(h) If the court issues an order of temporary custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child; or attempting to visit, contact, harass or intimidate the child, other family members or witnesses. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2008 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(i) (1) The court shall not enter an order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (A)(i) the child is likely to sustain harm if not immediately removed from the home;

- (ii) allowing the child to remain in home is contrary to the welfare of the child; or
- (iii) immediate placement of the child is in the best interest of the child; and

(B) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(2) Such findings shall be included in any order entered by the court. If the child is placed in the custody of the secretary, upon making the order the court shall provide the secretary with a written copy.

(j) If the court enters an order of temporary custody that provides for placement of the child with a person other than the parent, the court shall make a child support determination pursuant to K.S.A. 2008 Supp. 38-2277, and amendments thereto.

Sec. 6. K.S.A. 2008 Supp. 38-2255 is hereby amended to read as follows: 38-2255. (a) *Considerations*. Prior to entering an order of disposition, the court shall give consideration to:

(1) The child's physical, mental and emotional condition;

(2) the child's need for assistance;

(3) the manner in which the parent participated in the abuse, neglect or abandonment of the child;

(4) any relevant information from the intake and assessment process; and

(5) the evidence received at the dispositional hearing.

(b) *Placement with a parent.* The court may place the child in the custody of either of the child's parents subject to terms and conditions which the court prescribes to assure the proper care and protection of the child, including, but not limited to:

(1) Supervision of the child and the parent by a court services officer;

(2) participation by the child and the parent in available programs operated by an appropriate individual or agency; and

 $(\bar{3})$ any special treatment or care which the child needs for the child's physical, mental or emotional health and safety.

(c) Removal of a child from custody of a parent. The court shall not enter an order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (1)(A) The child is likely to sustain harm if not immediately removed from the home;

(B) allowing the child to remain in home is contrary to the welfare of the child; or

(C) immediate placement of the child is in the best interest of the child; and

(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(d) Custody of a child removed from the custody of a parent. If the court has made the findings required by subsection (c), the court shall enter an order awarding custody to a relative of the child or to a person with whom the child has close emotional ties, to any other suitable person, to a shelter facility, to a youth residential facility or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to the sectory. Custody awarded under this subsection shall continue until further order of the court.

(1) When custody is awarded to the secretary, the secretary shall consider any placement recommendation by the court and notify the court of the placement or proposed placement of the child within 10 days of the order awarding custody.

(A) After providing the parties or interested parties notice and opportunity to be heard, the court may determine whether the secretary's placement or proposed placement is contrary to the welfare or in the best interests of the child. In making that determination the court shall consider the health and safety needs of the child and the resources available to meet the needs of children in the custody of the secretary. If the court determines that the placement or proposed placement is contrary to the welfare or not in the best interests of the child, the court shall notify the secretary, who shall then make an alternative placement.

(B) The secretary may propose and the court may order the child to be placed in the custody of a parent or parents if the secretary has provided and the court has approved an appropriate safety action plan which includes services to be provided. The court may order the parent or parents and the child to perform tasks as set out in the safety action plan.

(2) The custodian designated under this subsection shall notify the court in writing at least 10 days prior to any planned placement with a parent. The written notice shall state the basis for the custodian's belief that placement with a parent is no longer contrary to the welfare or best interest of the child. Upon reviewing the notice, the court may allow the custodian to proceed with the planned placement or may set the date for a hearing to determine if the child shall be allowed to return home. If the court sets a hearing on the matter, the custodian shall not return the child home without written consent of the court.

(3) The court may grant any person reasonable rights to visit the child upon motion of the person and a finding that the visitation rights would be in the best interests of the child.

(4) The court may enter an order restraining any alleged perpetrator of physical, mental or emotional abuse or sexual abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2008 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(5) The court shall provide a copy of any orders entered within 10 days of entering the order to the custodian designated under this subsection.

(e) Further determinations regarding a child removed from the home. If custody has been awarded under subsection (d) to a person other than a parent, a permanency plan shall be provided or prepared pursuant to K.S.A. 2008 Supp. 38-2264, and amendments thereto. If a permanency plan is provided at the dispositional hearing, the court may determine whether reintegration is a viable alternative or, if reintegration is not a viable alternative, whether the child should be placed for adoption or a permanent custodian appointed. In determining whether reintegration is a viable alternative, the court shall consider:

(1) Whether a parent has been found by a court to have committed one of the following crimes or to have violated the law of another state prohibiting such crimes or to have aided

and abetted, attempted, conspired or solicited the commission of one of these crimes: Murder in the first degree, K.S.A. 21-3401, and amendments thereto, murder in the second degree, K.S.A. 21-3402, and amendments thereto, capital murder, K.S.A. 21-3439, and amendments thereto, voluntary manslaughter, K.S.A. 21-3403, and amendments thereto, or a felony battery that resulted in bodily injury;

(2) whether a parent has subjected the child or another child to aggravated circumstances;

(3) whether a parent has previously been found to be an unfit parent in proceedings under this code or in comparable proceedings under the laws of another state or the federal government;

(4) whether the child has been in extended out of home placement;

(5) whether the parents have failed to work diligently toward reintegration;

(6) whether the secretary has provided the family with services necessary for the safe return of the child to the home; and

(7) whether it is reasonable to expect reintegration to occur within a time frame consistent with the child's developmental needs.

(f) Proceedings if reintegration is not a viable alternative. If the court determines that reintegration is not a viable alternative, proceedings to terminate parental rights and permit placement of the child for adoption or appointment of a permanent custodian shall be initiated unless the court finds that compelling reasons have been documented in the case plan why adoption or appointment of a permanent custodian would not be in the best interests of the child. If compelling reasons have not been documented, the county or district attorney shall file a motion within 30 days to terminate parental rights or a motion to appoint a permanent custodian when the parents voluntarily relinquish parental rights or consent to the appointment of a permanent custodian.

(g) Additional Orders. In addition to or in lieu of any other order authorized by this section:

(1) The court may order the child and the parents of any child who has been adjudicated a child in need of care to attend counseling sessions as the court directs. The expense of the counseling may be assessed as an expense in the case. No mental health provider shall charge a greater fee for court-ordered counseling than the provider would have charged to the person receiving counseling if the person had requested counseling on the person's own initiative.

(2) If the court has reason to believe that a child is before the court due, in whole or in part, to the use or misuse of alcohol or a violation of the uniform controlled substances act by the child, a parent of the child, or another person responsible for the care of the child, the court may order the child, parent of the child or other person responsible for the care of the child to submit to and complete an alcohol and drug evaluation by a qualified person or agency and comply with any recommendations. If the evaluation is performed by a community-based alcohol and drug safety program certified pursuant to K.S.A. 8-1008, and amendments thereto, the child, parent of the child or other person responsible for the care of the child shall pay a fee not to exceed the fee established by that statute. If the court finds that the child and those legally liable for the child's support are indigent, the fee may be waived. In no event shall the fee be assessed against the secretary.

(3) If child support has been requested and the parent or parents have a duty to support the child, the court may order one or both parents to pay child support and, when custody is awarded to the secretary, the court shall order one or both parents to pay child support. The court shall determine, for each parent separately, whether the parent is already subject to an order to pay support for the child. If the parent is not presently ordered to pay support for any child who is subject to the jurisdiction of the court and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 2008 Supp. 38-2277, and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to K.S.A. 23-4,105 et seq., and amendments thereto, for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent ordered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A. 2008 Supp. 38-2279, and amendments thereto. The parent shall also be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed by law. Failure to provide this notice shall not affect the validity of the child support order.

Sec. 7. K.S.A. 2008 Supp. 38-2202, 38-2203, 38-2232, 38-2242, 38-2243 and 38-2255 are hereby repealed.";

And by renumbering the remaining section accordingly;

Also on page 20, in line 14, by striking "Kansas register" and inserting "statute book";

In the title, by striking all in lines 12 through 16 and inserting the following: "AN ACT concerning the Kansas code for care of children; amending K.S.A. 2008 Supp. 38-2202, 38-2203, 38-2232, 38-2242, 38-2243 and 38-2255 and repealing the existing sections.";

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

LANCE KINZER JEFF WHITHAM JANICE L. PAULS Conferees on part of House

THOMAS C. OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate

Senator Owens moved the Senate adopt the Conference Committee Report on **SB 134**. On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Steineger, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 145**, 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 as House Substitute for Senate Bill No. 145, as follows:

On page 1, preceding line 13, by inserting the following:

"Section 1. K.S.A. 8-1522 is hereby amended to read as follows: 8-1522. Whenever any roadway has been divided into two $\frac{(2)}{2}$ or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply.

(a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(b) Upon a roadway which is divided into three (3) lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.

(c) Upon a highway located outside the corporate limits of any city divided into two lanes of traffic proceeding in the same direction, all vehicles shall be driven in the right lane except when:

(1) Overtaking and passing another vehicle;

(2) preparing to make a proper left turn;

(3) otherwise directed by official traffic-control devices; or

(4) otherwise required by other provisions of law.

(d) Upon a highway located outside the corporate limits of any city divided into three or more lanes of traffic proceeding in the same direction, vehicles shall not be driven in the far left lane except when:

(1) Overtaking and passing another vehicle;

- (2) preparing to make a proper left turn;
- (3) otherwise directed by official traffic-control devices; or
- (4) otherwise required by other provisions of law.

(e) The provisions of subsections (c) and (d) shall not apply to authorized emergency vehicles, law enforcement vehicles, Kansas turnpike authority vehicles or department of transportation vehicles performing construction or maintenance work.

(c) (f) Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.

(d) (g) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

(h) From and after July 1, 2009, and prior to July 1, 2010, a law enforcement officer shall issue a warning citation to anyone violating the provisions of subsection (c) or (d).

Sec. 2. K.S.A. 2008 Supp. 8-1911 is hereby amended to read as follows: 8-1911. (a) The secretary of transportation with respect to highways under the secretary's jurisdiction and local authorities with respect to highways under their jurisdiction, in their discretion, upon application, may issue a special permit, which term shall include an authorization number, to the owner or operator of an oversize or overweight vehicle. The special permit shall authorize the special permit holder to operate or move a vehicle or combination of vehicles which exceed the limitations of this act, on a route, or routes, designated in the special permit and in accordance with the terms and conditions of the special permit.

(b) The application for the permit shall describe the vehicle, or combination of vehicles and all loads or cargo for which the special permit is requested, the route or routes on which operation is sought and whether a single trip or annual operation is requested. One special permit may be issued for a vehicle or combination of vehicles, that are both oversize and overweight. A special permit under this section may be for a single trip or for annual operation. The special permit shall designate the route or routes that may be used and any other terms, conditions or restrictions deemed necessary. The secretary of transportation shall charge a fee for each permit or authorization number issued as provided for in subsection (f). No permit shall be required to authorize the moving or operating upon any highway of farm tractors, combines, fertilizer dispensing equipment or other farm machinery, or machinery being transported to be used for terracing or soil or water conservation work upon farms, or vehicles owned by counties, cities and other political subdivisions of the state, except that this sentence shall not: (1) Exempt trucks owned by counties, cities and other political subdivisions specifically designed and equipped and used exclusively for garbage, refuse or solid waste disposal operations from the maximum gross weight limitations contained in the table in K.S.A. 8-1909, and amendments thereto; or (2) authorize travel on interstate highways.

(c) A permit shall be valid only when the registration on the power unit is equal to or exceeds the total gross weight of the vehicle. When the gross weight of the vehicle exceeds the upper limit of the available registration, the maximum amount of registration must be purchased. The provisions of this subsection shall not apply to a wrecker or tow truck, as defined in K.S.A. 66-1329, and amendments thereto, and registered in accordance with the provisions of K.S.A. 8-143, and amendments thereto.

(d) The secretary or local authority may issue or withhold the permit at the secretary's or local authority's discretion or may limit the number of trips, or establish seasonal or other time limitations within which the vehicles described may be operated on the highways, or may otherwise limit or prescribe conditions of operations of such vehicle or combination of vehicles, when necessary to assure against undue damage to the road. The secretary or local

authority may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(e) Every permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit. It shall be unlawful for any person to violate any of the terms or conditions of special permit.

(f) The secretary of transportation shall charge and collect fees as follows:

(1) Five Twenty dollars for each single-trip permit;

(2) thirty dollars for each single-trip permit for a large structure, as defined by rules and regulations;

(3) fifty dollars for each single-trip permit for a superload, as defined by rules and regulations;

 $\frac{(2)}{(4)}$ (4) twenty-five dollars for a five-year permit for vehicles authorized to move bales of hay under subsection (j) on noninterstate highways;

(3) (5) one hundred and twenty-five *fifty* dollars for each annual permit; or

(4) (6) two thousand dollars per year for each qualified carrier company for special vehicle combination permits authorized under K.S.A. 8-1915, and amendments thereto, plus \$50 per year for each power unit operating under such annual permit.

No fees shall be charged for permits issued for vehicles owned by counties, cities and other political subdivisions of the state. All permit fees received under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund. The secretary may adopt rules and regulations for payment and collection of all fees. The secretary may adopt rules and regulations implementing the provisions of this section to prescribe standards for any permit program to enhance highway safety.

(g) If any local authority does not desire to exercise the powers conferred on it by this section to issue or deny permits then such a permit from the local authority shall not be required to operate any such vehicle or combination of vehicles on highways under the jurisdiction of such local authority, but in no event shall the jurisdiction of the local authority be construed as extending to any portion of any state highway, any city street designated by the secretary as a connecting link in the state highway system or any highway within the national system of interstate and defense highways, which highways and streets, for the purpose of this section, shall be under the jurisdiction of the secretary.

(h) A house trailer, manufactured home or mobile home which exceeds the width as provided in subsection (a) of K.S.A. 8-1902, and amendments thereto, may be moved on the highways of this state by obtaining a permit as provided in this section, if:

(1) The width of such house trailer, manufactured home or mobile home does not exceed 16½ feet;

(2) $\,$ the driver of the vehicle pulling the house trailer, manufactured home or mobile home has a valid driver's license; and

(3) the driver carries evidence that the housetrailer, manufactured home or mobile home, and the vehicle pulling it, are covered by motor vehicle liability insurance with limits of not less than \$100,000 for injury to any one person, and \$300,000 for injury to persons in any one accident, and \$25,000 for injury to property.

For the purposes of this subsection, the terms "manufactured home" and "mobile home" shall have the meanings ascribed to them by K.S.A. 58-4202, and amendments thereto.

(i) Upon proper application stating the description and registration of each power unit, the secretary of transportation shall issue permits for a period, from May 1 to November 15, for custom combine operators to tow custom-combine equipment on a trailer within legal dimensions or a trailer especially designed for the transportation of combines or combine equipment at the rate of \$10 per power unit. Each application shall be accompanied by information as required by the secretary. The permit shall allow custom combine operators to haul two combine headers on designated interstate highways provided:

(1) The vehicle plus the load do not exceed 14 feet in width;

(2) the move is completed during the period beginning 30 minutes before sunrise and ending 30 minutes after sunset; and

(3) the vehicle plus the load are not overweight.

(j) Except as provided in paragraph (2) of subsection (d) of K.S.A. 8-1902, and amendments thereto, a vehicle loaded with bales of hay which exceeds the width as provided in subsection (a) of K.S.A. 8-1902, and amendments thereto, may be moved on any highway designated as a part of the national network of highways by obtaining a permit as provided by this section, if:

(1) The vehicle plus the bales of hay do not exceed 12 feet in width;

(2) $\,$ the vehicle plus the bales of hay do not exceed the height authorized under K.S.A. 8-1904, and amendments thereto;

(3) the move is completed during the period beginning 30 minutes before sunrise and ending 30 minutes after sunset;

(4) the vehicle plus the load are not overweight; and

(5) the vehicle plus the load comply with the signing and marking requirements of paragraph (3) of subsection (d) of K.S.A. 8-1902, and amendments thereto.

(k) If it is determined by the secretary of transportation that a person has been granted a permit and has not complied with the applicable provisions of this section and the rules and regulations of the secretary of transportation relating thereto, the secretary may cancel the permit and may refuse to grant future permits to the individual.";

And by renumbering sections accordingly;

Also on page 1, in line 27, preceding "K.S.A." by inserting "K.S.A. 8-1522 and"; also in line 27, by striking "8-1916 is" and inserting "8-1911 and 8-1916 are";

In the title, in line 9, by striking "cotton modules" and inserting "special permits; relating to driving in the right lane"; in line 10, by striking all preceding "and" and inserting "8-1522 and K.S.A. 2008 Supp. 8-1911 and 8-1916"; also in line 10, by striking "section" and inserting "sections";

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

GARY K. HAYZLETT JENE VICKREY MARGARET LONG Conferees on part of House DWAYNE UMBARGER BOD MADSIMUM

BOB MARSHALL KELLY KULTALA Conferees on part of Senate

Senator Umbarger moved the Senate adopt the Conference Committee Report on H Sub for SB 145.

On roll call, the vote was: Yeas 35, Nays 3, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Pilcher-Cook, Pyle.

Absent or Not Voting: Steineger, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2014**, submits the following report:

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

On page 2, by striking all in lines 14 through 25 and inserting the following:

"New Sec. 3. (a) The secretary of administration shall adopt rules and regulations, within 18 months of the effective date of this act, for state agencies for the conduct of an energy audit at least every five years on all state-owned real property. On or before the first

day of the 2010 regular session of the legislature and on or before the first day of each ensuing regular session of the legislature, the secretary of administration shall submit a written report to the joint committee on state building construction, the house committee on energy and utilities and the senate committee on utilities, or their successors, and an electronic copy to the legislature, identifying state-owned real property locations in which an excessive amount of energy is being used in accordance with rules and regulations adopted, within 18 months after the effective date of this act, by the secretary of administration concerning energy efficiency performance standards for state-owned real property.";

On page 4, after line 10, by inserting the following:

"(e) (1) The commission shall establish rules and regulations for the administration of a certification process for renewable electric generation facilities for purposes of fulfilling the requirements of section 6, and amendments thereto.

(2) The commission shall establish rules and regulations required in this subsection within 18 months of the effective date of this act.";

Also on page 4, in line 11, by striking "(e)" and inserting "(f)"; in line 16, by striking "energy"; in line 17, by striking "K.S.A. 79-201, and amendments thereto," and inserting "K.S.A. 17-4652, and amendments thereto, and also means municipal or other solid waste and animal waste,"; in line 31, by striking all after "renewable"; in line 32, by striking all before the semicolon and inserting "resources or technologies as defined in K.S.A. 17-4652, and amendments thereto, and also means municipal or other solid waste";

On page 30, by striking all in lines 7 through 18 and inserting the following:

"(b) The provisions of this section shall apply if the cost of the Kansas coal, including costs of transportation and handling at the new coal-fired electricity generating facility, is:

(1) Competitive to the cost of the out-of-state coal supply the owner or operator of the new coal-fired electricity generating facility is using to meet its remaining coal supply requirements;

(2) sold on comparable contractual terms and specification; and

(3) of an acceptable quality for use in the new coal-fired electricity generating facility.

This section shall not apply if the use or purchase of Kansas coal will result in the owner or operator of the new coal-fired electricity generating facility violating its air permit or a contractual obligation to which the owner or operator is subject.";

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

MIKE PETERSEN PAT APPLE JANIS K. LEE Conferees on part of Senate

CARL DEAN HOLMES FORREST KNOX Conferees on part of House

Senator Apple moved the Senate adopt the Conference Committee Report on **S Sub for Sub HB 2014**.

On roll call, the vote was: Yeas 31, Nays 7, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Haley, Huelskamp, Kelsey, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Faust-Goudeau, Francisco, Hensley, Holland, Kelly, Kultala, Schodorf. Absent or Not Voting: Steineger, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2060**, submits the following report: The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, following line 19, by inserting the following:

"Section 1. K.S.A. 8-1568 is hereby amended to read as follows: 8-1568. (a) (1) Any driver of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to elude for a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), (2) or (3). The signal given by the police officer may be by hand, voice, emergency light or siren. The officer giving such signal shall be in uniform, prominently displaying such officer's badge of office, and the officer's vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle.

(2) Any driver of a motor vehicle who willfully otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), (2) or (3).

(3) It shall be an affirmative defense to any prosecution under paragraph (1) of this subsection that the driver's conduct in violation of such paragraph was caused by such driver's reasonable belief that the vehicle or bicycle pursuing such driver's vehicle is not a police vehicle or police bicycle.

(b) Any driver who violates the provisions of subsection (a) of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, and who: (1) Commits any of the following during a police pursuit: (A) Fails to stop for a police road block; (B) drives around tire deflating devices placed by a police officer; (C) engages in reckless driving as defined by K.S.A. 8-1566 and amendments thereto; (D) is involved in any motor vehicle accident or intentionally causes damage to property; or (E) commits five or more moving violations; or

(2) is attempting to elude capture for the commission of any felony, shall be guilty as provided in subsection (c)(4).

(c) (1) Every person convicted of violating *Violation of subsection* (a), upon a first conviction, shall be guilty of *is* a class B nonperson misdemeanor.

(2) Every person convicted of violating Violation of subsection (a), upon a second conviction of such subsection, shall be guilty of *is* a class A nonperson misdemeanor.

(3) Every person convicted of violating Violation of subsection (a), upon a third or subsequent conviction of such subsection, shall be guilty of is a severity level 9, person felony.

(4) Every person convicted of violating Violation of subsection (b) shall be guilty of is a severity level 9, person felony.

(d) The signal given by the police officer may be by hand, voice, emergency light or siren:

(1) If the officer giving such signal is within or upon an official police vehicle or police bicycle at the time the signal is given, the vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle; or

(2) if the officer giving such signal is not utilizing an official police vehicle or police bicycle at the time the signal is given, the officer shall be in uniform, prominently displaying such officer's badge of office at the time the signal is given.

 $(\mathbf{d})(e)$ For the purpose of this section:

(1) "Conviction" means a final conviction without regard whether sentence was suspended or probation granted after such conviction. Forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

(2) "Appropriately marked" official police vehicle or police bicycle shall include, but not be limited to, any police vehicle or bicycle equipped with functional emergency lights or siren or both and which the emergency lights or siren or both have been activated for the purpose of signaling a driver to stop a motor vehicle. (e) (f) The division of vehicles of the department of revenue shall promote public awareness of the provisions of this section when persons apply for or renew such person's driver's license.

Sec. 2. K.S.A. 21-3419 is hereby amended to read as follows: 21-3419. (a) A criminal threat is any threat to:

(1) Commit violence communicated with intent to terrorize another, or to cause the evacuation, *lock down or disruption in regular, ongoing activities* of any building, place of assembly or facility of transportation, or in reckless disregard of the risk of causing such terror or evacuation, *lock down or disruption in regular, ongoing activities*;

(2) adulterate or contaminate any food, raw agricultural commodity, beverage, drug, animal feed, plant or public water supply; or

(3) expose any animal in this state to any contagious or infectious disease.

(b) A criminal threat is a severity level 9, person felony.

(c) As used in this section, "threat" includes any statement that one has committed any action described by subsection (a)(1) or (2).

Sec. 3. K.S.A. 2008 Supp. 21-3419a is hereby amended to read as follows: 21-3419a. (a) Aggravated criminal threat is the commission of one or more crimes of criminal threat, as defined in K.S.A. 21-3419 and amendments thereto, when a public, commercial or industrial building, place of assembly or facility of transportation is evacuated, *locked down* or disrupted as to regular, ongoing activities as a result of the threat or threats.

(b) Aggravated criminal threat is a severity level 5, person felony.";

And by renumbering sections accordingly;

On page 2, in line 7, by striking "attending the"; in line 8, by striking "conduct" and inserting "attendance";

On page 3, in line 1, by striking all preceding "of" and inserting ", unlawful attendance"; following line 39, by inserting the following:

"Sec. 7. K.S.A. 21-4603d is hereby amended to read as follows: 21-4603d. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense;

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence, or community corrections placement;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6)~ assign the defendant to a house arrest program pursuant to K.S.A. 21-4603b and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (3) of K.S.A. 21-4502, and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape, as defined in K.S.A. 21-3809, and amendments thereto, or aggravated escape, as defined in K.S.A. 21-3810, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson under K.S.A. 21-3718 or 21-3719, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company or any public funds which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company and the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10); or

(12) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 21-4018, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The administrative judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (4) of K.S.A. 21-4502, and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation, the court shall direct that the defendant be under the

supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release, or postrelease supervision for a felony, a new sentence shall be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671 prior to its repeal or K.S.A. 2007 2008 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(3) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendment thereto or a community intermediate sanction center. Pursuant to this paragraph the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or a community intermediate sanction center and the defendant meets all of the conservation camp's or a community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or a community intermediate sanction center.

(h) The court in committing a defendant to the custody of the secretary of corrections shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense

services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment y oucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(I) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate: (1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, or for an offense which is classified in gridblocks 4-E or 4-F of the sentencing guidelines grid for drug crimes and such offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, and (2) otherwise meets admission criteria of the camp. If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 21-4611 and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) Except as provided by subsection (f) of K.S.A. 21-4705, and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 65-4160 or 65-4162, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 21-4729, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. 2007 2008 Supp. 75-52,144, and amendments thereto, including but not limited to, an approved after-care plan. If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to revocation of probation and the defendant shall serve the underlying prison sentence as established in K.S.A. 21-4705, and amendments thereto. For those offenders who are convicted on or after the effective date of this act, upon completion of the underlying prison sentence, the defendant shall not be subject to a period of postrelease supervision. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of K.S.A. 65-4160, 65-4162 or 65-4164, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division shall forward a copy of it to the motor vehicle administrator, of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto.

Sec. 8. K.S.A. 21-4611 is hereby amended to read as follows: 21-4611. (a) The period of suspension of sentence, probation or assignment to community corrections fixed by the court shall not exceed five years in felony cases involving crimes committed prior to July 1, 1993, or two years in misdemeanor cases, subject to renewal and extension for additional fixed periods not exceeding five years in such felony cases, nor two years in misdemeanor cases. In no event shall the total period of probation, suspension of sentence or assignment to community corrections for a felony committed prior to July 1, 1993, exceed the greatest maximum term provided by law for the crime, except that where the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. Probation, suspension of sentence or assignment to community corrections may be terminated by the court at any time and upon such termination or upon termination by expiration of the term of probation, suspension of sentence or assignment

to community corrections, an order to this effect shall be entered by the court. The provisions of K.S.A. 75-5291, and amendments thereto, shall be applicable to any assignment to a community correctional services program pursuant to this section.

(b) The district court having jurisdiction of the offender may parole any misdemeanant sentenced to confinement in the county jail. The period of such parole shall be fixed by the court and shall not exceed two years and shall be terminated in the manner provided for termination of suspended sentence and probation.

(c) For all crimes committed on or after July 1, 1993, the duration of probation in felony cases sentenced for the following severity levels on the sentencing guidelines grid for nondrug crimes and the sentencing guidelines grid for drug crimes is as follows:

(1) For nondrug crimes the recommended duration of probations is:

(A) Thirty-six months for crimes in crime severity levels 1 through 5; and

(B) 24 months for crimes in crime severity levels 6 and 7.

(2) For drug crimes the recommended duration of probation is 36 months for crimes in crime severity levels 1 and 2.

(3) *Except as otherwise provided*, in felony cases sentenced at severity levels 9 and 10 on the sentencing guidelines grid for nondrug crimes and severity level 4 on the sentencing guidelines grid for drug crimes, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation, or assignment to a community correctional services program as provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to 12 months in length.

(4) In felony cases sentenced at severity level 8 on the sentencing guidelines grid for nondrug crimes and, severity level 3 on the sentencing guidelines grid for drug crimes and felony cases sentenced pursuant to K.S.A. 21-4729, and amendments thereto, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation, or assignment to a community correctional services program, as provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to 18 months in length.

(5) If the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by the length of the probation terms provided in subsections (c)(3) and (c)(4), the court may impose a longer period of probation. Such an increase shall not be considered a departure and shall not be subject to appeal.

(6) Except as provided in subsections (c)(7) and (c)(8), the total period in all cases shall not exceed 60 months, or the maximum period of the prison sentence that could be imposed whichever is longer. Nonprison sentences may be terminated by the court at any time.

(7) If the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. If the defendant is ordered to pay full or partial restitution, the period may be continued as long as the amount of restitution ordered has not been paid.

(8) The court may modify or extend the offender's period of supervision, pursuant to a modification hearing and a judicial finding of necessity. Such extensions may be made for a maximum period of five years or the maximum period of the prison sentence that could be imposed, whichever is longer, inclusive of the original supervision term.

(d) The provisions of subsection (c), as amended by this act, shall be applied retroactively. The sentencing court shall direct that a review of all persons serving a nonprison sanction for a crime in severity levels 8, 9 or 10 of the sentencing guidelines grid for nondrug crimes or a crime in severity levels 3 or 4 of the sentencing guidelines grid for drug crimes be conducted. On or before September 1, 2000, the duration of such person's probation shall be modified in conformity with the provisions of subsection (c).";

And by renumbering the remaining sections accordingly;

On page 9, in line 39, preceding the period by inserting "and shall be served consecutively to any other term or terms of imprisonment imposed";

On page 13, in line 17, by striking "Such" and inserting "Subject to appropriations therefor, such"; in line 20, following the period by inserting "If the secretary determines that substance abuse treatment resources are otherwise available, such term of imprisonment may be served in a facility designated by the secretary of corrections in the custody of the secretary of corrections to participate in an intensive substance abuse treatment program. The secretary's determination regarding the availability of treatment resources shall not be subject to review."; by striking all in lines 41 through 43;

By striking all on page 14;

On page 15, by striking all in lines 1 through 15 and inserting the following:

"(g) (1) Except as provided further, if the trier of fact makes a finding that an offender carried a firearm to commit a drug felony, or in furtherance of a drug felony, possessed a firearm, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to:

(A) Except as provided in subparagraph (1)(B), an additional 6 months' imprisonment; and

(B) if the trier of fact makes a finding that the firearm was discharged, an additional 18 months' imprisonment.

(2) The sentence imposed pursuant to paragraph (1) shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) The provisions of this subsection shall not apply to violations of K.S.A. 65-4152, 65-4160 or 65-4162, and amendments thereto.

Sec. 11. K.S.A. 2008 Supp. 21-4714 is hereby amended to read as follows: 21-4714. (a) The court shall order the preparation of the presentence investigation report by the court services officer as soon as possible after conviction of the defendant.

(b) Each presentence report prepared for an offender to be sentenced for one or more felonies committed on or after July 1, 1993, shall be limited to the following information:

(1) A summary of the factual circumstances of the crime or crimes of conviction.

(2) If the defendant desires to do so, a summary of the defendant's version of the crime.

(3) When there is an identifiable victim, a victim report. The person preparing the victim report shall submit the report to the victim and request that the information be returned to be submitted as a part of the presentence investigation. To the extent possible, the report shall include a complete listing of restitution for damages suffered by the victim.

(4) An appropriate classification of each crime of conviction on the crime severity scale.

(5) A listing of prior adult convictions or juvenile adjudications for felony or misdemeanor crimes or violations of county resolutions or city ordinances comparable to any misdemeanor defined by state law. Such listing shall include an assessment of the appropriate classification of the criminal history on the criminal history scale and the source of information regarding each listed prior conviction and any available source of journal entries or other documents through which the listed convictions may be verified. If any such journal entries or other documents are obtained by the court services officer, they shall be attached to the presentence investigation report. Any prior criminal history worksheets of the defendant shall also be attached.

(6) A proposed grid block classification for each crime, or crimes of conviction and the presumptive sentence for each crime, or crimes of conviction.

(7) If the proposed grid block classification is a grid block which presumes imprisonment, the presumptive prison term range and the presumptive duration of postprison supervision as it relates to the crime severity scale.

(8) If the proposed grid block classification does not presume prison, the presumptive prison term range and the presumptive duration of the nonprison sanction as it relates to the crime severity scale and the court services officer's professional assessment as to recommendations for conditions to be mandated as part of the nonprison sanction.

(9) For defendants who are being sentenced for a conviction of a felony violation of K.S.A. 65-4160 or 65-4162, and amendments thereto, and meet the requirements of K.S.A. 21-4729, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.

(10) For defendants who are being sentenced for a third or subsequent felony conviction of a violation of K.S.A. 65-4160 or 65-4162, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.

(c) The presentence report will become part of the court record and shall be accessible to the public, except that the official version, defendant's version and the victim's statement, any psychological reports, risk and needs assessments and drug and alcohol reports and assessments shall be accessible only to the parties, the sentencing judge, the department of corrections, and if requested, the Kansas sentencing commission. If the offender is committed to the custody of the secretary of corrections, the report shall be sent to the secretary and, in accordance with K.S.A. 75-5220 and amendments thereto to the warden of the state correctional institution to which the defendant is conveyed.

(d) The criminal history worksheet will not substitute as a presentence report.

(e) The presentence report will not include optional report components, which would be subject to the discretion of the sentencing court in each district except for psychological reports and drug and alcohol reports.

(f) *Except as provided in K.S.A.* 21-4715, and amendments thereto, the court can take judicial notice in a subsequent felony proceeding of an earlier presentence report criminal history worksheet prepared for a prior sentencing of the defendant for a felony committed on or after July 1, 1993.

(g) All presentence reports in any case in which the defendant has been convicted of a felony shall be on a form approved by the Kansas sentencing commission.

Sec. 12. K.S.A. 21-4715 is hereby amended to read as follows: 21-4715. (a) The offender's criminal history shall be admitted in open court by the offender or determined by a preponderance of the evidence at the sentencing hearing by the sentencing judge.

(b) Except to the extent disputed in accordance with subsection (c), the summary of the offender's criminal history prepared for the court by the state shall satisfy the state's burden of proof regarding an offender's criminal history.

(c) Upon receipt of the criminal history worksheet prepared for the court, the offender shall immediately notify the district attorney and the court with written notice of any error in the proposed criminal history worksheet. Such notice shall specify the exact nature of the alleged error. The state shall have the burden of producing further evidence to satisfy its burden of proof regarding any disputed part, or parts, of the criminal history and the sentencing judge shall allow the state reasonable time to produce such evidence to establish the disputed portion of the criminal history by a preponderance of the evidence. If the offender later challenges such offender's criminal history, which has been previously established, the burden of proof shall shift to the offender to prove such offender's criminal history by a preponderance of the evidence.

Sec. 13. K.S.A. 2008 Supp. 75-5291 is hereby amended to read as follows: 75-5291. (a) (1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services that address the criminogenic needs of felony offenders including, but not limited to, adult intensive supervision, substance abuse and mental health services, employment and residential services, and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52,127 and amendments thereto.

(2) Except as otherwise provided, placement of offenders in community correctional services programs by the court shall be limited to placement of adult offenders, convicted of a felony offense:

(A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In addition, the court may place in a community correctional services program adult offenders, convicted of a felony offense, whose offense is classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes;

(B) whose severity level and criminal history score designate a presumptive prison sentence on either sentencing guidelines grid but receive a nonprison sentence as a result of departure;

(C) all offenders convicted of an offense which satisfies the definition of offender pursuant to K.S.A. 22-4902, and amendments thereto, and which is classified as a severity level 7 or higher offense and who receive a nonprison sentence, regardless of the manner in which the sentence is imposed;

(D) any offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in the offender being required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections;

(E) on and after July 1, 2010 January 1, 2011, for offenders who are expected to be subject to supervision in Kansas, who are determined to be "high risk or needs, or both" by the use of a statewide, mandatory, standardized risk assessment tool or instrument which shall be specified by the Kansas sentencing commission;

(F) placed in community correctional services programs as a condition of supervision following the successful completion of a conservation camp program; or

 $\rm (G)~$ who has been sentenced to community corrections supervision pursuant to K.S.A. 21-4729, and amendments thereto.

(3) (A) Notwithstanding any law to the contrary and subject to the availability of funding therefor, adult offenders sentenced to community supervision in Johnson county for felony crimes that occurred on or after July 1, 2002, but before July 1, 2010 January 1, 2011, shall be placed under court services or community corrections supervision based upon court rules issued by the chief judge of the 10th judicial district. The provisions contained in this subsection shall not apply to offenders transferred by the assigned agency to an agency located outside of Johnson county. The provisions of this paragraph shall expire on July 1, 2010 January 1, 2011.

(B) On or before the first day of the 2009 legislative session, the Kansas sentencing commission shall submit a written report on such offender program to the senate standing committee on judiciary and the house of representatives standing committee on judiciary.

(4) Nothing in this act shall prohibit a community correctional services program from providing services to juvenile offenders upon approval by the local community corrections advisory board. Grants from community corrections funds administered by the secretary of corrections shall not be expended for such services.

(5) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established, as provided in K.S.A. 22-3716, and amendments thereto, to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(b) (1) In order to establish a mechanism for community correctional services to participate in the department of corrections annual budget planning process, the secretary of corrections shall establish a community corrections advisory committee to identify new or enhanced correctional or treatment interventions designed to divert offenders from prison.

(2) The secretary shall appoint one member from the southeast community corrections region, one member from the northeast community corrections region, one member from the central community corrections region and one member from the western community corrections region. The deputy secretary of community and field services shall designate two members from the state at large. The secretary shall have final appointment approval of the members designated by the deputy secretary. The committee shall reflect the diversity of community correctional services with respect to geographical location and average daily population of offenders under supervision.

(3) Each member shall be appointed for a term of three years and such terms shall be staggered as determined by the secretary. Members shall be eligible for reappointment.

(4) The committee, in collaboration with the deputy secretary of community and field services or the deputy secretary's designee, shall routinely examine and report to the secretary on the following issues:

- (A) Efficiencies in the delivery of field supervision services;
- (B) effectiveness and enhancement of existing interventions;
- (C) identification of new interventions; and
- (D) statewide performance indicators.
- (5) The committee's report concerning enhanced or new interventions shall address:
- (A) Goals and measurable objectives;

(B) projected costs;

(C) the impact on public safety; and

(D) the evaluation process.

(6) The committee shall submit its report to the secretary annually on or before July 15 in order for the enhanced or new interventions to be considered for inclusion within the department of corrections budget request for community correctional services or in the department's enhanced services budget request for the subsequent fiscal year.

Sec. 14. K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4611 and 21-4715 and K.S.A. 2008 Supp. 21-3419a, 21-4704, 21-4705, 21-4714 and 75-5291 are hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all in lines 12 through 17 and inserting the following: "AN ACT concerning crimes, punishment and criminal procedure; amending K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4611 and 21-4715 and K.S.A. 2008 Supp. 21-3419a, 21-4704, 21-4705, 21-4714 and 75-5291 and repealing the existing sections.";

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

THOMAS C. OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate

PAT COLLOTON JOE PATTON MELODY MCCRAY-MILLER Conferees on part of House

Senator Owens moved the Senate adopt the Conference Committee Report on **HB 2060**. On roll call, the vote was: Yeas 36, Nays 2, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Faust-Goudeau, Haley.

Absent or Not Voting: Steineger, Wysong.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "No" on **HB 2060**. At least once a year, this Legislature is bamboozled into the hypocrisy of the need to exercise wise fiscal constraint versus the belief that excessive expense will actually benefit the common good. **HB 2060** does just that. It's only purpose is to inflate crimes with mandatory prison sentences. The more sentences; the fewer available prison beds . . . and the need to spend more precious tax dollars to expand prison space.

Mr. President, this would all be well and good if the general public were better protected or even better served. But, none of the provisions of this special interest conglomerate, make the average Kansan any safer, only poorer. Wisdom prevailing . . . again I vote "No".—DAVID HALEY

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2121**, submits the following report:

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

On page 37, after line 26, by inserting the following:

"New Sec. 34. (a) As used in this section:

(1) "rBST" means recombinant bovine somatotropin.

(2) "rBGH" means recombinant bovine growth hormone.

(3) "BST" means bovine somatotropin.

(b) Milk, milk products and dairy products shall be deemed misbranded, as defined in K.S.A. 65-771, and amendments thereto, if the labels on the containers in which the products are sold or offered for sale contain any false or misleading statements as specified in this section.

(c) Each milk, milk product or dairy product label that contains a production claim stating that: "This milk is from cows not supplemented with rBST," or a substantially equivalent statement regarding hormones, shall be deemed misleading unless both of the following conditions are met:

(1) The owner or operator of each dairy manufacturing plant, as defined in K.S.A. 65-771, and amendments thereto, verifies that the claim is accurate and has in its possession a milk producer's affidavit that the milk is from cows not supplemented with rBST and any other written records deemed necessary by the dairy manufacturing plant owner or operator to support the claim, and these documents are made readily available to the department of agriculture for inspection.

(2) The label panel contains, in a similar font, style, case, size and color as used in the production claim, the following qualifying statement: "The FDA has determined that no significant difference has been shown between milk derived from rBST-supplemented and non-rBST-supplemented cows", or a substantially equivalent statement regarding hormones. The color of the qualifying statement shall be of sufficient contrast to the background color to be easily read.

(d) If a milk, milk product or dairy product label contains a statement indicating the absence of a compound that is not permitted by the United States food and drug administration to be present in the product, including antibiotics and pesticides, the label shall be deemed false and misleading. Such statement shall not be permitted on milk, milk product, and dairy product labels.

(e) The provisions of this section shall not be construed to prohibit any seals or marks authorized by a federal law or Kansas statute.

(f) (1) On and after January 1, 2011, this section shall apply to the labels on all non-reusable containers of milk, milk products and dairy products.

(2) Each reusable container for milk, a milk product or a dairy product purchased by the owner or operator of a dairy manufacturing plant before January 1, 2011, that includes on the label the production claim that "this milk is from cows not supplemented with rBST" or a substantially equivalent statement regarding hormones, shall include the qualifying language specified in paragraph (c)(2) of this section affixed to the container. The qualifying language shall not be required to be on the same label, immediately after the production claim on the label or in exactly the same font, style, case, size and color as used in the production claim.

(3) On and after January 1, 2011, this section shall apply to the labels on all reusable containers of milk, milk products and dairy products purchased by the owner or operator of a dairy processing plant on or after that date.

(g) The provisions of this section shall not apply to agricultural products certified as organic agricultural products pursuant to the national organic program of the United States department of agriculture.

Sec. 35. K.S.A. 2008 Supp. 2-3318 is hereby amended to read as follows: 2-3318. (a) Regardless of whether irrigation water is added, whenever swine waste is applied to crops or land, the secretary *of health and environment* is authorized to investigate, inspect or conduct any manner of examination or review of the application of swine waste. No swine waste shall be applied to crops or land in excess of agronomic application rates.

(b) The secretary of health and environment shall review and approve all nutrient utilization plans that provide for the application of swine waste to crops or land and that are submitted by swine confined feeding facilities pursuant to K.S.A. 65-1,182 and amendments thereto if the plans demonstrate that swine waste will be applied pursuant to agronomic application rates and include all required information. Nutrient utilization plans shall be submitted on a form required by the secretary. The secretary shall notify the secretary of health and environment when a nutrient utilization plan has been approved and whether the approval is conditioned on any amendments or revisions to the plan of health and environment.

(c) Failure of the operator of a swine confined feeding facility to implement a nutrient utilization plan approved by the secretary *of health and environment* shall be considered a violation of the Kansas chemigation safety law for which the secretary may suspend a permit pursuant to K.S.A. 2-3310 and amendments thereto or may impose a civil penalty pursuant to K.S.A. 2-3317 and amendments thereto, or both.

(d) This section shall be part of and supplemental to the Kansas chemigation safety law. Sec. 36. K.S.A. 2008 Supp. 65-1,182 is hereby amended to read as follows: 65-1,182.(a) The department of health and environment shall not issue or renew a permit for any swine facility that has an animal unit capacity of 1,000 or more and that applies manure or

wastewater to land unless: (1) The land application process complies with the applicable requirements of this section; and

(2) the nutrient utilization plan required by this section is approved by the secretary of agriculture secretary of health and environment as specified by K.S.A. 2008 Supp. 2-3318, and amendments thereto.

(b) (1) If the manure management plan prepared pursuant to K.S.A. 65-1,181 and amendments thereto provides for land application of manure or wastewater:

(A) The applicant for a permit for construction of a new swine facility or for expansion of an existing swine facility shall submit with the application for a permit a nutrient utilization plan on a form prescribed by the secretary of agriculture the secretary of health and environment as applicable and shall comply with the plan when the permit is issued by the department of health and environment; and

(B) the operator of an existing swine facility shall submit to the department of health and environment, within six months after the rules and regulations implementing this act are adopted, a nutrient utilization plan on a form prescribed by the secretary of agriculture the secretary of health and environment, for approval by the secretary of agriculture the secretary of health and environment; and shall comply with the plan by a date established by the secretary of agriculture the secretary of health and environment.

(2) Each nutrient utilization plan shall address site-specific conditions for land application of manure, wastewater and other nutrient sources, comply with the requirements of this section and contain, at minimum, the following:

(A) A site map of all land application areas, including section, township and range;

(B) crop rotations on the land application areas;

(C) annual records of soil tests, manure nutrient analyses, and calculations required by subsection (c);

(D) nutrient budgets for the land application areas;

(E) rates, methods, frequency and timing of application of manure, wastewater and other nutrient sources to the land application areas;

(F) the amounts of nitrogen and phosphorus applied to the land application areas;

(G) precipitation records and the amounts of irrigation and other water applied;

(H) records of inspections and preventive maintenance of equipment required by subsection (f)(6);

(I) copies of all landowner agreements for land that is not owned by the swine facility and is scheduled to receive manure or wastewater;

(J) names of employees and contractors whom the operator of the swine facility has identified pursuant to subsection (f)(7) to supervise the process of transferring manure or wastewater to land application equipment and the process of land application;

(K) records of training of all personnel who supervise and conduct the land application of manure or wastewater, as required by subsection (f)(7); and

(L) any other information required by the secretary of agriculture the secretary of health and environment to facilitate approval.

(3) (A) A swine facility that is required to have a nutrient utilization plan shall amend such plan whenever warranted by changes in the facility, soil test results or other conditions affecting the facility.

(B) Amendments to the nutrient utilization plan must be approved by the secretary of agriculture the secretary of health and environment.

(4) A swine facility that is required to have a nutrient utilization plan shall maintain such plan in accordance with K.S.A. 65-1,185 and amendments thereto.

(c) (1) Each swine facility that has a manure management plan that includes land application of manure or wastewater shall:

(A) Conduct soil tests, including but not limited to tests for nitrogen, phosphate, chloride, copper and zinc, on the land application areas prior to preparation of the nutrient utilization plan and at least annually thereafter, or as often as required by best available soil science and standards relative to the soils of, and crops to be grown on, the land application areas or as required by the secretary of agriculture the secretary of health and environment; and

(B) include the results of such tests in its nutrient utilization plan.

(2) Each swine facility that has a manure management plan that includes land application of manure or wastewater or sells or gives manure or wastewater to third persons pursuant to subsection (h) of K.S.A. 65-1,181 and amendments thereto shall:

(A) Conduct manure nutrient analyses of its manure and wastewater prior to preparation of its nutrient utilization plan and at least every two years thereafter; and

(B) include the results of such analyses in its nutrient utilization plan.

(3) Each swine facility that has a manure management plan that includes land application of manure or wastewater shall:

(A) Compare the manure nutrient analyses required by subsection (c)(2) with the soil tests required by subsection (c)(1) to calculate needed fertility and application rates for pasture production and crop target yields on the land application areas prior to the preparation of the nutrient utilization plan and each time thereafter when new soil tests or manure nutrient analyses are conducted; and

(B) include such calculations in the nutrient utilization plan.

(d) If a swine facility is required to have a nutrient utilization plan and finds that the soil tests required pursuant to this act indicate that the phosphorus holding capacity for any soils in the facility's land application areas may be exceeded within five years, the facility shall promptly initiate the process to obtain access to the additional land application areas needed, or make other adjustments, to achieve the capability to apply manure or wastewater at appropriate agronomic rates.

(e) The Kansas department of agriculture of health and environment may require a swine facility that is required to have a nutrient utilization plan to apply manure or wastewater on all or a portion of the facility's land application areas at a rate within the agronomic phosphorus needs of the crops or pasture, or the soil phosphorus holding capacity, in less than the time originally allowed in the approved nutrient utilization plan if the department of agriculture the department of health and environment finds that the land application actions of the facility are contributing to the impairment of groundwater or surface water.

(f) (1) Each swine facility that is required to have a nutrient utilization plan shall include in such plan, and thereafter comply with, the requirements that manure or wastewater shall not be applied on bare ground by any process, other than incorporation into the soil during the same day, within 1,000 feet of any habitable structure, wildlife refuge or city, county, state or federal park, unless:

(A) The manure or wastewater has been subjected to physical, biological or biochemical treatment or other treatment method for odor reduction approved by the department of health and environment;

(B) the manure or wastewater is applied with innovative treatment or application that is best available technology for swine facilities and best management practices for swine facilities or other technology approved by the department of health and environment; or

(C) the owner of the habitable structure has provided a written waiver to the facility.

(2) The separation distance requirements of subsection (f)(1) shall not apply to any structure constructed or park designated as a city, county, state or federal park after the effective date of this act, for swine facilities in existence on the effective date of this act, or any structure constructed or park designated as a city, county, state or federal park after

submission of an application for a permit for a new swine facility or expansion of an existing swine facility.

(3) Swine facilities that are required to have a nutrient utilization plan shall not apply manure or wastewater:

(A) To lands classified as highly erodible according to the conservation compliance provisions of the federal food security act of 1985, as in effect on the effective date of this act, and classified as highly erodible on the basis of erosion resulting from water runoff, except where soil conservation practices to control erosion and runoff in compliance with the requirements of this section are identified in the facility's nutrient utilization plan and are followed by the facility;

(B) during rain storms, except where soil conservation practices to control erosion and runoff in compliance with the requirements of this section are identified in the facility's nutrient utilization plan and are followed by the facility;

(C) to frozen or saturated soil, except where soil conservation practices to control runoff in compliance with the requirements of this section are identified in the facility's nutrient utilization plan and are followed by the facility; and

(D) to any areas to which the separation distance requirements of subsection (f) apply.

(4) Swine facilities that are required to have a nutrient utilization plan shall follow procedures and precautions in the land application of manure or wastewater to prevent discharge of manure or wastewater to surface water and groundwater due to excess infiltration, penetration of drainage tile lines, introduction into tile inlets or surface runoff, including appropriate soil conservation practices to protect surface water from runoff carrying eroded soil and manure particles.

(5) Swine facilities that are required to have a nutrient utilization plan and that conduct wastewater irrigation shall:

 (\mathbf{A}) $\;$ Employ measures to irrigate under conditions that reasonably prevent surface runoff; and

(B) use reasonable procedures and precautions to avoid spray drift from the land to which it is applied.

(6) Each swine facility that is required to have a nutrient utilization plan and that land applies manure or wastewater shall ensure that any equipment used in the land application process is properly maintained and calibrated and monitor the use of the equipment so that any malfunction that develops during the land application process is detected and the process ceases until the malfunction is corrected.

(7) The operator of each swine facility that is required to have a nutrient utilization plan and that land applies manure or wastewater shall:

(A) Identify, train and keep current the training of each employee and contractor who supervises the transfer of manure or wastewater to land application equipment and the conducting of land application activities; and

(B) $\,$ train, and keep current the training of, all employees and contractors who conduct land application activities.

(g) Each swine facility that is required to have a nutrient utilization plan shall amend such plan whenever warranted by changes in conditions. The operator of the facility shall file such plan and any amendments to such plan with the department of health and environment and the department shall forward such plan and any amendments to the secretary of agriculture.

(h) The secretary of agriculture secretary of health and environment shall make a determination to approve or disapprove a nutrient utilization plan not later than 45 days after the plan is received from the department of health and environment.";

And by renumbering sections accordingly;

Also on page 37, in line 31, preceding "65-778" by inserting "2-3318,"; also in line 31, by striking "and" and inserting a comma; also in line 31, after "65-781" by inserting "and 65-1,182";

In the title, in line 16, after "to" by inserting "application of swine waste;"; in line 17, by striking "fees for"; in line 18, after the semicolon by inserting "fees and labeling requirements;"; in line 23, preceding "65-778" by inserting "2-3318,"; also in line 23, by striking

"and" where it appears for the first time and inserting a comma; also in line 23, after "65-781" by inserting "and 65-1,182";

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

MARK TADDIKEN RALPH OSTMEYER Conferees on part of Senate

LARRY POWELL ROCKY FUND JOSH SVATY Conferees on part of House

Senator Taddiken moved the Senate adopt the Conference Committee Report on ${f HB}$ 2121.

On roll call, the vote was: Yeas 22, Nays 15, Present and Passing 1, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pyle, Schmidt D, Taddiken, Umbarger.

Nays: Bruce, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Owens, Pilcher-Cook, Reitz, Schmidt V, Schodorf, Teichman, Vratil.

Present and Passing: Wagle.

Absent or Not Voting: Steineger, Wysong.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote NO on the conference committee report for HB 2121.

I have no objections to the provisions that were originally within **HB 2121** however I do object to some of the provisions of **HB 2295** that were added to the conference committee report on this bill. It is sensible to require the owner or operator of a dairy manufacturing plant to verify that their claims are accurate. It is not sensible for the legislature to pass measures that may restrict information for consumers who want to know that the cows producing milk for a specific product have not been injected with rbST. The Federal Food and Drug Administration gives guidance on labeling regarding rbST that is working for farmers, processors, marketers and consumers; they also require that the statements be truthful. To go beyond those guidelines and establish our own state requirements for labeling is not friendly to Kansas, national, and international businesses. Because the ambiguous word "similar" is used in the requirements the state will be collecting fee funds from Kansas dairies that will have to be spent giving out of state businesses direction that we could have easily provided more straightforwardly in the statute.—MARCI FRANCISCO

Senators Hensley and Kelly request the record to show they concur with the "Explanation of Vote" offered by Senator Francisco on **HB 2121**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2152**, submits the following report:

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

On page 1, by striking all in lines 23 through 43;

By striking all on pages 2 through 13;

On page 14, by striking all in lines 1 through 27 and inserting the following:

"New Sec. 2. (a) It shall be unlawful for any person to operate a golf cart: (1) On any interstate highway, federal highway or state highway; (2) on any public highway or street within the corporate limits of any city unless authorized by such city; or (3) on any street or highway with a posted speed limit greater than 30 miles per hour.

(b) The provisions of subsection (a) shall not prohibit a golf cart from crossing a federal or state highway or a street or highway with a posted speed limit in excess of 30 miles per hour.

(c) A golf cart shall be operated on any public street or highway only during the hours between sunrise and sunset.

 $\left(d\right)$. This section shall be part of and supplemental to the uniform act regulating traffic on highways.

New Sec. 3. (a) It shall be unlawful for any person to operate a work-site utility vehicle: (1) On any interstate highway, federal highway or state highway; or (2) within the corporate limits of any city unless authorized by such city.

(b) No work-site utility vehicle shall be operated on any public highway, street or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.

(c) This section shall be part of and supplemental to the uniform act regulating traffic on highways.

Sec. 4. K.S.A. 2008 Supp. 8-126 is hereby amended to read as follows: 8-126. The following words and phrases when used in this act shall have the meanings respectively ascribed to them herein:

(a) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor vehicle" means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

(c) "Truck" means a motor vehicle which is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

(d) "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined.

(e) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

(f) "Farm tractor" means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

(g) "Road tractor" means every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

(h) "Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(i) "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(j) "Pole trailer" means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

(k) "Specially constructed vehicle" means any vehicle which shall not have been originally constructed under a distinctive name, make, model or type, or which, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

(l) "Foreign vehicle" means every motor vehicle, trailer or semitrailer which shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

(m) "Person" means every natural person, firm, partnership, association or corporation.

(n) "Owner" means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or

in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this act.

(o) "Nonresident" means every person who is not a resident of this state.

(p) "Manufacturer" means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

(q) "New vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles and who holds a dealer's contract therefor from a manufacturer or distributor and who has an established place of business in this state.

(r) "Used vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state and who does not hold a dealer's contract for the sale of new motor vehicles, travel trailers, trailers or vehicles.

(s) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

(t) "Department" or "motor vehicle department" or "vehicle department" means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas.

(u) "Commission" or "state highway commission" means the director of vehicles of the department of revenue.

(v) "Division" means the division of vehicles of the department of revenue.

(w) "Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

(x) "Passenger vehicle" means every motor vehicle, as herein defined, which is designed primarily to carry 10 or fewer passengers, and which is not used as a truck.

(y) "Self-propelled farm implement" means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

(z) "Farm trailer" means every trailer as defined in subsection (h) of this section and every semitrailer as defined in subsection (i) of this section, designed and used primarily as a farm vehicle.

 $(aa)\quad ``Motorized bicycle'' means every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has:$

(1) A motor which produces not more than 3.5 brake horsepower;

(2) a cylinder capacity of not more than 130 cubic centimeters;

(3) an automatic transmission; and

(4) the capability of a maximum design speed of no more than 30 miles per hour.

(bb) "All-terrain vehicle" means any motorized nonhighway vehicle $\frac{48}{50}$ inches or less in width, having a dry weight of $\frac{1,000}{1,500}$ pounds or less, traveling on three or more lowpressure nonhighway tires, having a seat designed to be straddled by the operator. As used in this subsection, low-pressure nonhighway tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of $\frac{12}{12}$ 14 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(cc) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

(1) A farm tractor;

(2) a self-propelled farm implement;

(3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;

(4) $\,$ a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;

(5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.

 (dd) "Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person that is incapable of a speed in excess of 15 miles per hour.

(ee) "Oil well servicing, oil well clean-out or oil well drilling machinery or equipment" means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is an oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

(ff) "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

(gg) "Electronic certificate of title" means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 2008 Supp. 8-135d, and amendments thereto.

(hh) "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck.

(ii) "Micro utility truck" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 144 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. "Micro utility truck" does not include a work-site utility vehicle.

(jj) "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.

Sec. 5. K.S.A. 2008 Supp. 8-128 is hereby amended to read as follows: 8-128. (a) The following need not be registered under this act, any:

- (1) Implement of husbandry;
- (2) all-terrain vehicle;
- (3) micro utility truck;
- (4) golf cart;
- (5) work-site utility vehicle;
- (4) (6) road roller or road machinery temporarily operated or moved upon the highways;
- (5) (7) municipally owned fire truck;
- (6) (8) privately owned fire truck subject to a mutual aid agreement with a municipality;

 $(\overline{7})$ (9) school bus owned and operated by a school district or a nonpublic school which has the name of the municipality, school district or nonpublic school plainly painted thereon;

(8) (10) farm trailer used in carrying not more than 6,000 pounds owned by a person engaged in farming, which trailer is used exclusively by the owner to transport agricultural products produced by such owner or commodities purchased by the owner for use on the farm owned or rented by the owner of such trailer and the weight of any such farm trailer, plus the cargo weight of 6,000 pounds or less, shall not be considered in determining the gross weight for which the truck or truck tractor propelling the same shall be registered; or

(9) (11) farm trailer used and designed for transporting hay or forage from a field to a storage area or from a storage area to a feedlot, which is only incidentally moved or operated upon the highways, except that this paragraph shall not apply to a farm semitrailer.

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(b) Self-propelled cranes where the crane operator on a job site operates the controls of such crane from a permanent housing or module on the crane and the crane is not used for the transportation of property, except the property that is required for the operation of the crane itself and earth moving equipment which are equipped with pneumatic tires may be moved on the highways of this state from one job location to another, or to or from places of storage, delivery or repair, without complying with the provisions of the law relating to registration and display of license plates but shall comply with all the other requirements of the law relating to motor vehicles.

(c) Oil well servicing, oil well clean-out or oil well drilling machinery or equipment need not be registered under this act but shall comply with all the other requirements of the law relating to motor vehicles.

(d) A truck permanently mounted with a hydraulic concrete pump and placing boom may be moved on the highways of this state from one job location to another, or to or from places of storage delivery or repair, without being registered under this act, but shall comply with all the other requirements of the law relating to motor vehicles. The provisions of this subsection shall not apply to ready-mix concrete trucks.

Sec. 6. K.S.A. 2008 Supp. 8-1486 is hereby amended to read as follows: 8-1486. K.S.A. 8-1402a, 8-1414a, 8-1439c, 8-1459a, 8-1459a, 8-1475a, 8-1487, 8-1488, 8-1489 and 8-1490 and amendments thereto, and K.S.A. 2008 Supp. 8-1491, 8-1492, 8-1493 and, 8-1494 and section 1, and amendments thereto, shall be a part of, and supplemental to, the uniform act regulating traffic on highways.

Sec. 7. K.S.A. 2008 Supp. 8-1494 is hereby amended to read as follows: 8-1494. "Micro utility truck" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 144 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. "Micro utility truck" does not include a work-site utility vehicle.

Sec. 8. K.S.A. 2008 Supp. 8-2118, as amended by section 4 of 2009 House Bill No. 2147, is hereby amended to read as follows: 8-2118. (a) A person charged with a traffic infraction shall, except as provided in subsection (b), appear at the place and time specified in the notice to appear. If the person enters an appearance, waives right to trial, pleads guilty or no contest, the fine shall be no greater than that specified in the uniform fine schedule in subsection (c) and court costs shall be taxed as provided by law.

(b) Prior to the time specified in the notice to appear, a person charged with a traffic infraction may enter a written appearance, waive right to trial, plead guilty or no contest and pay the fine for the violation as specified in the uniform fine schedule in subsection (c) and court costs provided by law. Payment may be made by mail or in person and may be by personal check. The traffic citation shall not have been complied with if a check is not honored for any reason, or if the fine and court costs are not paid in full. When a person charged with a traffic infraction makes payment without executing a written waiver of right to trial and plea of guilty or no contest.

(c) The following uniform fine schedule shall apply uniformly throughout the state but shall not limit the fine which may be imposed following a court appearance, except an appearance made for the purpose of pleading and payment as permitted by subsection (a). The description of offense contained in the following uniform fine schedule is for reference only and is not a legal definition.

Description of Offense	Statute	Fine
Refusal to submit to a preliminary breath test	8-1012	\$90
Unsafe speed for prevailing conditions	8-1557	\$60
Exceeding maximum speed limit; or speeding	8-1558	1-10 mph over the limit, \$30
in zone posted by the state department of	to	
transportation; or speeding in locally posted	8-1560	11-20 mph over the limit,
zone	8-1560a	\$30 plus \$6 per mph over
	or	10 mph over the limit;
	8-1560b	

21-30 mph over the limit, \$90 plus \$9 per mph over 20 mph over the limit;

		31 and more mph over the limit, \$180 plus \$15 per mph over 30 mph over the limit:
Disobeying traffic control device	8-1507	\$60
Violating traffic control signal	8-1508	\$60
Violating pedestrian control signal	8-1509	\$30
Violating flashing traffic signals	8-1510	\$60
Violating lane-control signal	8-1511	\$60
Unauthorized sign, signal, marking or device	8-1512	\$30
Driving on left side of roadway	8-1512	\$60
Failure to keep right to pass oncoming vehicle	8-1515	\$60 \$60
Improper passing; increasing speed when passed	8-1516	\$60 \$60
Improper passing on right	8-1517	\$60
Passing on left with insufficient clearance	8-1518	\$60
Driving on left side where curve, grade,	8-1519	\$60
intersection railroad crossing, or obstructed view		
Driving on left in no-passing zone	8-1520	\$60
Unlawful passing of stopped emergency vehicle	8-1520a	\$60
Driving wrong direction on one-way road	8-1521	\$60
Improper driving on laned roadway	8-1522	\$60
Following too close	8-1523	\$60
Improper crossover on divided highway	8-1524	\$30
Failure to yield right-of-way at uncontrolled intersection	8-1526	\$60
Failure to yield to approaching vehicle when turning left	8-1527	\$60
Failure to yield at stop or yield sign	8-1528	\$60
Failure to yield from private road or driveway	8-1529	\$60
Failure to yield to emergency vehicle	8-1530	\$180
Failure to yield to pedestrian or vehicle	8-1531	\$90
working on roadway		+ • •
Failure to comply with restrictions in road construction zone	8-1531a	\$30
Disobeying pedestrian traffic control device	8-1532	\$30
Failure to yield to pedestrian in crosswalk;	8-1533	\$60
pedestrian suddenly entering roadway; passing vehicle stopped for pedestrian at crosswalk		
Improper pedestrian crossing	8-1534	\$30
Failure to exercise due care in regard to pedestrian	8-1535	\$30
Improper pedestrian movement in crosswalk	8-1536	\$30
Improper use of roadway by pedestrian	8-1537	\$30
Soliciting ride or business on roadway	8-1538	\$30
Driving through safety zone	8-1539	\$30
Failure to yield to pedestrian on sidewalk	8-1540	\$30
Failure of pedestrian to yield to emergency vehicle	8-1541	\$30
Failure to yield to blind pedestrian	8-1542	\$30

Pedestrian disobeying bridge or railroad signal	8-1544	\$30
Improper turn or approach	8-1545	\$60
Improper "U" turn	8-1546	\$60
Unsafe starting of stopped vehicle	8-1547	\$30
Unsafe turning or stopping, failure to give proper signal; using turn signal unlawfully	8-1548	\$60
Improper method of giving notice of intention to turn	8-1549	\$30
Improper hand signal	8-1550	\$30
Failure to stop or obey railroad crossing signal	8-1551	\$180
Failure to stop at railroad crossing stop sign	8-1552	\$120
Certain hazardous vehicles failure to stop at	8-1553	\$180
railroad crossing	0 1554	¢60
Improper moving of heavy equipment at railroad crossing	8-1554	\$60
Vehicle emerging from alley, private roadway, building or driveway	8-1555	\$60
Improper passing of school bus; improper use	8-1556	\$300
of school bus signals Improper passing of church or day-care bus;	8-1556a	\$180
improper use of signals	0 1561	¢20
Impeding normal traffic by slow speed	8-1561	\$30 \$60
Speeding on motor-driven cycle	8-1562 8-1563	\$60 \$20
Speeding in certain vehicles or on posted bridge	0-1005	\$30
Improper stopping, standing or parking on roadway	8-1569	\$30
Parking, standing or stopping in prohibited area	8-1571	\$30
Improper parking	8-1572	\$30
Unattended vehicle	8-1573	\$30
Improper backing	8-1574	\$30
Driving on sidewalk	8-1575	\$30
Driving with view or driving mechanism	8-1576	\$30
obstructed		+
Unsafe opening of vehicle door	8-1577	\$30
Riding in house trailer	8-1578	\$30
Improper driving in defiles, canyons, or on grades	8-1579	\$30
Coasting	8-1580	\$30
Following fire apparatus too closely	8-1581	\$60
Driving over fire hose	8-1582	\$30
Putting glass, etc., on highway	8-1583	\$90
Driving into intersection, crosswalk, or	8-1584	\$30
crossing without sufficient space on other side		+
Improper operation of snowmobile on highway	8-1585	\$30
Parental responsibility of child riding bicycle	8-1586	\$30
Not riding on bicycle seat; too many persons	8-1588	\$30
on bicycle	0-1000	φοσ
Clinging to other vehicle	8-1589	\$30
Improper riding of bicycle on roadway	8-1590	\$30
Carrying articles on bicycle; one hand on handlebars	8-1591	\$30
Improper bicycle lamps, brakes or reflectors	8-1592	\$30

Improper operation of motorcycle; seats; passengers, bundles	8-1594	\$30
Improper operation of motorcycle on laned roadway	8-1595	\$60
Motorcycle clinging to other vehicle	8-1596	\$30
Improper motorcycle handlebars or passenger equipment	8-1597	\$60
Motorcycle helmet and eye-protection requirements	8-1598	\$30
Unlawful riding on vehicle	8-1578a	\$60
Unlawful operation of all-terrain vehicle	8-15,100	\$60
Unlawful operation of low-speed vehicle	8-15,101	\$60
Littering	8-15,102	\$100
	8-15,103	\$60
Disobeying school crossing guard Unlawful operation of micro utility truck		
	8-15,106	\$60 ¢60
Failure to remove vehicles in accidents	section 1	\$60
	of 2009	
	House Bill	
The law of the second second second	No. 2147	¢C0
Unlawful operation of golf cart	section 2	\$60 ¢CO
Unlawful operation of work-site utility vehicle	section 3	\$60 ¢60
Equipment offenses that are not misdemeanors	8-1701	\$60
Driving without lights when needed	8-1703	\$30
Defective headlamps	8-1705	\$30
Defective tail lamps	8-1706	\$30
Defective reflector	8-1707	\$30
Improper stop lamp or turn signal	8-1708	\$30
Improper lighting equipment on certain vehicles	8-1710	\$30
Improper lamp color on certain vehicles	8-1711	\$30
Improper mounting of reflectors and lamps on certain vehicles	8-1712	\$30
Improper visibility of reflectors and lamps on certain vehicles	8-1713	\$30
No lamp or flag on projecting load	8-1715	\$60
Improper lamps on parked vehicle	8-1716	\$30
Improper lights, lamps, reflectors and	8-1717	\$30
emblems on farm tractors or slow-moving vehicles		
Improper lamps and equipment on	8-1718	\$30
implements of husbandry, road machinery or animal-drawn vehicles		
Unlawful use of spot, fog, or auxiliary lamp	8-1719	\$30
Improper lamps or lights on emergency vehicle	8-1720	\$30
Improper stop or turn signal	8-1721	\$30
Improper vehicular hazard warning lamp	8-1722	\$30
Unauthorized additional lighting equipment	8-1723	\$30
Improper multiple-beam lights	8-1724	\$30
Failure to dim headlights	8-1725	\$60
Improper single-beam headlights	8-1726	\$30
Improper speed with alternate lighting	8-1727	\$30
Improper number of driving lamps	8-1728	\$30
Unauthorized lights and signals	8-1729	\$30
Improper school bus lighting equipment and	8-1730	\$30
warning devices		+ 30
0		

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Unauthorized lights and devices on church or	8-1730a	\$30
day-care bus Improper lights on highway construction or maintenance vehicles	8-1731	\$30
Defective brakes	8-1734	\$30
Defective or improper use of horn or warning	8-1738	\$30
device	0 1100	400
Defective muffler	8-1739	\$30
Defective mirror	8-1740	\$30
Defective wipers; obstructed windshield or	8-1741	\$30
windows		
Improper tires	8-1742	\$30
Improper flares or warning devices	8-1744	\$30
Improper use of vehicular hazard warning	8-1745	\$30
lamps and devices		
Improper air-conditioning equipment	8-1747	\$30
Improper safety belt or shoulder harness	8-1749	\$30
Improper wide-based single tires	8-1742b	\$60
Improper compression release engine braking	8-1761	\$60
system		
Defective motorcycle headlamp	8-1801	\$30
Defective motorcycle tail lamp	8-1802	\$30
Defective motorcycle reflector	8-1803	\$30
Defective motorcycle stop lamps and turn	8-1804	\$30
signals Defective multiple been lighting	0 100F	¢20
Defective multiple-beam lighting	8-1805 8-1806	\$30 \$30
Improper road-lighting equipment on motor- driven cycles	0-1000	\$ 3 0
Defective motorcycle or motor-driven cycle	8-1807	\$30
brakes	0 1001	φ σ σ
Improper performance ability of brakes	8-1808	\$30
Operating motorcycle with disapproved	8-1809	\$30
braking system		
Defective horn, muffler, mirrors or tires	8-1810	\$30
Unlawful statehouse parking	75-4510a	\$15
Exceeding gross weight of vehicle or	8-1909	Pounds Overweight
combination		up to 1000 \$25
		1001 to 2000 3¢ per pound
		2001 to 5000 5¢ per pound
		5001 to 7500 7¢ per pound
		7501 and over 10¢ per pound
Exceeding gross weight on any axle or tandem,	8-1908	Pounds Overweight
triple or quad axles		up to 1000 \$25
		1001 to 2000 3¢ per pound
		2001 to 5000 5¢ per pound
		5001 to 7500 7¢ per pound
		7501 and over 10¢ per pound
Failure to obtain proper registration, clearance	66-1324	\$272
or to have current certification		*100
Insufficient liability insurance for motor	66-1,128	\$122
carriers	or 66-131	
Failure to obtain interstate motor fuel tax	79-34,122	\$122
authorization	CC 1 111	¢100
No authority as private or common carrier	66-1,111	\$122 \$100
Violation of motor carrier safety rules and	66-1,129	\$100
regulations, except for violations specified in subsection (b)(2) of K.S.A. 66-1,130, and		
amendments thereto		
anchunchts utereto		

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(d) Traffic offenses classified as traffic infractions by this section shall be classified as ordinance traffic infractions by those cities adopting ordinances prohibiting the same offenses. A schedule of fines for all ordinance traffic infractions shall be established by the municipal judge in the manner prescribed by K.S.A. 12-4305, and amendments thereto. Such fines may vary from those contained in the uniform fine schedule contained in subsection (c).

(e) Fines listed in the uniform fine schedule contained in subsection (c) shall be doubled if a person is convicted of a traffic infraction, which is defined as a moving violation in accordance with rules and regulations adopted pursuant to K.S.A. 8-249, and amendments thereto, committed within any road construction zone as defined in K.S.A. 8-1458a, and amendments thereto.

(f) For a second violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after a prior conviction of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined $1\frac{1}{2}$ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a third violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years, after two prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined two times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after three prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after three prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, on a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined $2\frac{1}{2}$ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c).

(g) Fines listed in the uniform fine schedule contained in subsection (c) relating to exceeding the maximum speed limit, shall be doubled if a person is convicted of exceeding the maximum speed limit in a school zone authorized under subsection (a)(4) of K.S.A. 8-1560, and amendments thereto.";

By renumbering sections accordingly;

On page 15, in line 13, by striking "that" and inserting "as provided under subsection (c) or for"; in line 14, following "supplies" by inserting "which"; in line 29, by striking "on or before" and inserting "for"; also in line 29, by striking "is towed" and inserting "has been towed and such personal property shall be released to the owner"; following line 31, by inserting the following:

"Sec. 10. K.S.A. 2008 Supp. 66-1,108 is hereby amended to read as follows: 66-1,108. As used in this act:

(a) "Commission" means the corporation commission of the state of Kansas;

(b) "gross combination vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, gross combination weight rating shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and any load thereon;

(c) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single motor vehicle;

(d) "ground water well drilling rigs" means any vehicle, machine, tractor, trailer, semitrailer or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water;

(e) "household goods" means property and personal effects used or to be used in a dwelling, when a part of the equipment or supply of such dwelling and such other similar property, as the commission may provide by rules and regulations, if the transportation of such effects or property is:

(1) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in such householder's dwelling; or

(2) arranged and paid for by another party.

(f) "Motor carrier" means any person operating as a for hire motor carrier or a private motor carrier, and any of that person's agents, officers, representatives, as well as employees responsible for hiring, supervising, training, assigning or dispatching of drivers and employees concerned with the installation, inspection and maintenance of motor vehicle equipment or accessories or both;

(g) "motor vehicle" means any automobile, truck, trailer, semitrailer, tractor, motor bus or any other self-propelled or motor-driven vehicle used upon any of the public highways of the state for the purpose of transporting persons or property;

(h) "person" means any individual, firm, partnership, limited liability partnership, corporation, limited liability company, association or their lessees, trustees or receivers;

(i) "private motor carrier" means a person who provides transportation of property or passengers, by commercial *motor* vehicle and is not a for hire motor carrier;

(j) "public highways" means every public street, alley, road or highway or thoroughfare of any kind used by the public;

(k) "public motor carrier of household goods" means any person who undertakes for hire to transport by *commercial* motor vehicle from place to place, the household goods of others who may choose to employ or contract with the motor carrier;

(l) "public motor carrier of passengers" means any person who undertakes for hire to transport by *commercial* motor vehicle, from place to place, persons who may choose to employ or contract with the motor carrier; and

(m) "public motor carrier of property" means any person who undertakes for hire to transport by *commercial* motor vehicle, from place to place, the property other than household goods of others who may choose to employ or contract with the motor carrier.

Sec. 11. K.S.A. 2008 Supp. 66-1,109 is hereby amended to read as follows: 66-1,109. This act shall not require the following carriers to obtain a certificate, license or permit from the commission or file rates, tariffs, annual reports or provide proof of insurance with the commission:

(a) Transportation by motor carriers wholly within the corporate limits of a city or village in this state, or between contiguous cities or villages in this state or in this and another state, or between any city or village in this or another state and the suburban territory in this state within three miles of the corporate limits, or between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority, except that none of the exemptions specified in this subsection (a) shall apply to wrecker carriers and none of such exemptions shall apply to motor carriers of passengers, other than motor carriers of passengers operating as a part of the general transit system serving any such city or village in this or another state, operating on regular routes and time schedules between any city or village in this or another state, and the suburban territory in this state;

(b) a private motor carrier who operates within a radius of 25 miles beyond the corporate limits of its city or village of domicile, or who operates between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority;

(c) the owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in a motor vehicle of such owner or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment;

(d) persons operating motor vehicles used only to transport property when no common carrier is accessible, but when common-carrier service is available then this last exemption is limited to the transportation of such property from origin to the nearest practicable common-carrier receiving or loading point, or from a common-carrier unbeading point by way of the shortest practicable route to destination, providing such motor vehicle does not pass a practicable delivery or receiving point property from the point of origin to transport such load, or when used to transport property from the point of origin to gestination of such property is less distant from the point of origin thereof

than the nearest practicable common-carrier receiving or loading point equipped to transport such load,

-(e) (1) the transportation of children to and from school, or; (2) to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities; or (3) motor vehicles owned by nonprofit organizations meeting the qualification requirements of section 501(c) of the internal revenue code of 1986, and amendments thereto, when transporting property or materials belonging to the owner of the vehicle;

(f)(e) a new vehicle dealer as defined by K.S.A. 8-2401, and amendments thereto, when transporting property to or from the place of business of such dealer;

 $\frac{(g)}{(f)}$ motor vehicles carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work, not having been sold or being transported for the purpose of sale;

 $\frac{(h)}{(g)}$ persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles;

 $\frac{(i)}{(h)}$ (h) the operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers;

(j) (*i*) motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivision of this state, including vehicles used exclusively for handling U.S. mail, and the operation of motor vehicles used exclusively by organizations operating public transportation systems pursuant to 49 U.S.C. sections 5307, 5310 and 5311;

 $\langle \mathbf{k} \rangle (j)$ any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity of not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work;

(h) (k) motor vehicles used to transport water for domestic purposes, as defined by subsection (c) of K.S.A. 82a-701, and amendments thereto, or livestock consumption;

 $\frac{(m)}{l}$ transportation of sand, gravel, slag stone, limestone, crushed stone, cinders, calcium chloride, bituminous or concrete paving mixtures, blacktop, dirt or fill material to a construction site, highway maintenance or construction project or other storage facility and the operation of ready-mix concrete trucks in transportation of ready-mix concrete;

 $\frac{(n)}{(m)}$ the operation of a vehicle used exclusively for the transportation of solid waste, as the same is defined by K.S.A. 65-3402, and amendments thereto, to any solid waste processing facility or solid waste disposal area, as the same is defined by K.S.A. 65-3402, and amendments thereto;

 $\frac{(\sigma)}{(n)}$ the transporting of vehicles used solely in the custom combining business when being transported by persons engaged in such business;

 $\frac{\langle \mathbf{p} \rangle}{\langle \mathbf{p} \rangle}$ (o) the operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state;

 $\frac{d}{dt}(p)$ transportation by taxi or bus companies operated exclusively within any city or within 25 miles of the point of its domicile in a city;

 $\langle \mathbf{r} \rangle (q)$ a vehicle being operated with a dealer license plate issued under K.S.A. 8-2406, and amendments thereto, and in compliance with K.S.A. 8-136, and amendments thereto, and vehicles being operated with a full-privilege license plate issued under K.S.A. 8-2425, and amendments thereto;

(s) any person operating a motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, transporting property sold or to be sold by the owner or operator of such

motor vehicle, except motor vehicles transporting hazardous materials which require placards;

-(t) (r) the operation of vehicles used for transporting materials used in the servicing or repairing of the refractory linings of industrial boilers;

 $\overline{(u)}(s)$ transportation of newspapers published at least one time each week;

 $\overline{(\mathbf{v})}(t)$ transportation of animal dung to be used for fertilizer; and

(w) (u) the operation of ground water well drilling rigs.;

(v) the transportation of cotton modules from the field to the gin; and

(w) the transportation of custom harvested silage, including, but not limited to, corn, wheat and milo.";

And by renumbering the remaining sections accordingly;

Also on page 15, in line 32, following "8-1486," by inserting "8-1494,"; in line 33, by striking "and 8-2118" and inserting ", 8-2118, as amended by section 4 of 2009 House Bill No. 2147, 66-1,108 and 66-1,109";

In the title, in line 12, by striking "regulating the use of golf carts;"; in line 13, by striking all preceding the semicolon and inserting "concerning the regulation thereof"; in line 14, by striking "8-1103 and 8-2118" and inserting "8-1494, 8-1103, 8-2118, as amended by section 4 of 2009 House Bill No. 2147, 66-1,108 and 66-1,109";

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

DWAYNE UMBARGER BOB MARSHALL KELLY KULTALA Conferees on part of Senate

GARY K. HAYZLETT JENE VICKREY MARGARET LONG Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on HB 2152.

On roll call, the vote was: Yeas 37, Nays 1, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Pilcher-Cook.

Absent or Not Voting: Steineger, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2158**, submits the following report:

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

On page 3, by striking all in line 17 and inserting in lieu thereof the following:

"New Sec. 2. (a) The board of county commissioners of Sherman county may provide for the election of county commissioners in accordance with this section. The procedure for the election of county commissioners shall be adopted by resolution in accordance with the provisions of K.S.A. 19-204 and amendments thereto. The resolution shall be in substantial compliance with the provisions of subsection (b). Any county commissioner whose term has not expired by the time the resolution has been adopted by the voters of Sherman county, Kansas, shall continue to serve until a successor county commissioner is elected.

(b) (1) Each county commissioner shall run at large. Each candidate for county commissioner may reside anywhere within Sherman county, Kansas.

(2) All electors who are otherwise qualified according to law and who reside in Sherman county, Kansas, may vote in both the primary and general election for each county commissioner being elected. Each candidate shall file for the office of county commissioner in the manner provided by law. Elections for the office of county commissioner shall be conducted in accordance with the provisions of article 25 of the Kansas Statutes Annotated, and amendments thereto, except as provided in this section and amendments thereto.

(3) (A) Primary elections under this section shall be conducted on a partisan basis. In the primary election, each qualified voter shall be allowed to vote for the same number of candidates as the number of county commissioners being elected. For each county commissioner being elected, the candidate receiving the highest number of votes shall appear on the ballot in the general election.

(B) No person shall be permitted to cast more than one vote for any specific candidate.

(4) In the general election, each qualified voter shall be allowed to vote for the same number of candidates as the number of county commissioners being elected. The candidate receiving the highest number of votes for each office of county commissioner being elected shall be deemed to have been elected to such office.

(c) (1) The provisions of this section shall expire on December 31, 2010, unless the qualified voters of Sherman county, Kansas, elect to adopt the provisions of this section prior to such date.

(2) If a majority of the qualified electors voting on the resolution submitted to the voters pursuant to this section who reside within the corporate limits of the city of Goodland, Kansas, and a majority of the qualified electors voting on such resolution who reside outside of the corporate limits of the city of Goodland, Kansas, vote in favor thereof, the resolution shall be implemented in the manner provided by the resolution. If a majority of the electors who reside within the corporate limits of the city of Goodland, Kansas, vote in favor thereof, the resolution shall be implemented in the manner provided by the resolution. If a majority of the electors who reside within the corporate limits of the city of Goodland, Kansas, vote against such resolution, the proposed resolution shall not be implemented.

Sec. 3. K.S.A. 19-201 is hereby amended to read as follows: 19-201. *Except as provided in section 2, and amendments thereto,* each county in the state of Kansas shall have three (3), five (5) or seven (7) commissioner districts, which shall be designated numerically and serially beginning with number 1.

The provisions of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 4. K.S.A. 19-202 is hereby amended to read as follows: 19-202. (a) The board of county commissioners of each county shall consist of three, five or seven qualified electors.

(b) *Except as provided in section 2, and amendments thereto,* one county commissioner shall reside in and represent each commissioner district within the county. During the time that any person is a candidate for nomination or election to office as a member of the board of county commissioners and during the term of office of the county commissioner, such candidate or county commissioner shall be and remain a qualified elector who resides in such person's district.

(c) Except as provided by K.S.A. 19-203, and amendments thereto, terms of office for the board of county commissioners shall be staggered in such a way that no more than a simple majority of commissioners is elected at any general election.

(d) Except as provided by K.S.A. 19-203, and amendments thereto, all county commissioners shall hold office for a term of four years from the second Monday of January next after their election and until their successors are qualified.

(e) The provisions of subsections (a), (c) and (d) of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 5. K.S.A. 19-203 is hereby amended to read as follows: 19-203. (a) *Subject to the provisions of section 2, and amendments thereto,* when a vacancy occurs in the office of a member of the board of county commissioners, it shall be filled by appointment of a resident in the district to fill the office for the unexpired term and until a successor is elected and qualified. When a vacancy occurs before May 1 of the first even-numbered year following the commencement of a term of office, it shall be filled by the appointment of a resident of such district who shall serve until a successor is elected and qualified at the next general

election. Such successor shall assume office on the second Monday of January next following such election.

(b) Except as provided by subsection (c), appointments under this section shall be made in the manner provided by K.S.A. 25-3902, and amendments thereto, for filling vacancies in district offices.

(c) Subject to the provisions of section 2, and amendments thereto, vacancies created by an increase in the number of county commissioner districts in a county pursuant to K.S.A. 19-204, and amendments thereto, shall be filled by appointment of the governor. The governor shall make such appointments within 30 days of the date of the adoption of the resolution dividing the county into commissioner districts or within 30 days of the date of the order of the district court dividing the county into commissioner districts as required by K.S.A. 19-204a, and amendments thereto. Such appointees shall serve until successors are elected and qualified at the next general election. Such successors shall assume office on the second Monday of January next following their election. If at the next general election following such appointments, more than a simple majority of commissioners are elected, persons elected to the positions created by an increase in the number of districts shall be elected for two year terms and until their successors are qualified. The provisions of this subsection shall apply to positions created by an increase in the number of districts at the election held in November 1990 and all such elections thereafter.

Sec. 6. K.S.A. 19-204 is hereby amended to read as follows: 19-204. (a) Subject to the provisions of section 2, and amendments thereto, and subject to the provisions of K.S.A. 19-204a, and amendments thereto, the board of county commissioners, on the day of the organization of the board or as soon thereafter as may be possible, shall meet and divide the county into three commissioner districts or such number of districts as is prescribed by resolution of the board, as compact and equal in population as possible, and number them. Such districts shall be subject to alteration at least once every three years.

(b) In Shawnee county, each district shall include residents of both the incorporated and unincorporated areas of the county. The number of residents in each district from the unincorporated area of the county shall be as equal in number, as possible. Such districts shall be subject to alteration at least once every three years.

If the districts do not meet the requirements of this subsection, the districts shall be altered to comply with such requirements no later than 30 days following the effective date of this act.

(c) The board of county commissioners of any county, by resolution, may divide the county into three, five or seven commissioner districts, as compact and equal in population as possible, but no such resolution which would effect a change in the number of commissioner districts shall take effect until it has been approved by a majority of the qualified electors of the county voting thereon at the next general election following not less than 60 days the adoption of such resolution, in which all the qualified electors of the county are entitled to vote. Upon the presentation of a petition to the board of county commissioners, signed by electors equal in number to 5% of the qualified electors of the county and verified by the county election officer, requesting that the number of commissioner districts be changed, the board of county commissioners shall cause such proposition to be submitted to the voters of the county at the next general election, following not less than 60 days the presentation of such petition, in which all of the qualified electors of the county are entitled to vote. In the event that more than one such petition is presented to the board of county commissioners prior to a general election, and any of such petitions conflicts with any other such petition with respect to the number of commissioner districts requested, the board of county commissioners shall decide, by majority vote thereon, which of the propositions shall be submitted to the voters at the next such general election. If a majority of the electors voting at such election shall be in favor of changing the number of commissioner districts, the board of county commissioners shall provide for the division of the county into commissioner districts as provided in K.S.A. 19-204a, and amendments thereto.

 $(d)\;$ No change in the number of commissioner districts shall become effective in any county within four years of the effective date of any previous change in the number of commissioner districts in such county.

 $(e)\;$ The provisions of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 7. K.S.A. 19-204a is hereby amended to read as follows: 19-204a. *Subject to the provisions of section 2, and amendments thereto,* when the voters of a county approve a change in the number of county commissioner districts at an election held under K.S.A. 19-204, and amendments thereto, the board of county commissioners, on or before January 1 immediately following such election, shall adopt a resolution dividing the county into the number of districts approved by the voters. If the board of county commissioners fails to adopt such resolution within the time prescribed, the chief judge of the district court of the county, on or before the following January 31, shall order the county divided into the appropriate number of districts.

Sec. 8. K.S.A. 2008 Supp. 25-4156 is hereby amended to read as follows: 25-4156. (a) (1) Whenever any person sells space in any newspaper, magazine or other periodical to a candidate or to a candidate committee, party committee or political committee, the charge made for the use of such space shall not exceed the charges made for comparable use of such space for other purposes.

(2) Intentionally charging an excessive amount for political advertising is a class A misdemeanor.

(b) (1) Corrupt political advertising of a state or local office is:

(A) Publishing or causing to be published in a newspaper or other periodical any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the word "advertisement" or the abbreviation "adv." in a separate line together with the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

(B) broadcasting or causing to be broadcast by any radio or television station any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor; or

(C) telephoning or causing to be contacted by any telephonic means including, but not limited to, any device using a voice over internet protocol or wireless telephone, any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is preceded by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor; or

 (\mathbf{C}) (D) publishing or causing to be published any brochure, flier or other political fact sheet, *website*, *e-mail or other type of internet communication* which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this subsection (\mathbf{C}) (*D*) requiring the disclosure of the name of an individual shall not apply to individuals making expenditures in an aggregate amount of less than \$2,500 within a calendar year or any internet communication disseminated to less than 25 individuals.

(2) Corrupt political advertising of a state or local office is a class C misdemeanor.

(c) If any provision of this section or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this section which can be given effect without the invalid application or provision, and to this end the provisions of this section are declared to be severable. Sec. 9. K.S.A. 2008 Supp. 25-4148 is hereby amended to read as follows: 25-4148. (a) Every treasurer shall file a report prescribed by this section. Reports filed by treasurers for candidates for state office, other than officers elected on a state-wide basis, shall be filed in both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident. Reports filed by treasurers for candidates for state-wide office shall be filed *electronically and* only with the secretary of state. Reports filed by treasurers for candidates for local office shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot. Except as otherwise provided by subsection (h), all such reports shall be filed in time to be received in the offices required on or before each of the following days:

(1) The eighth day preceding the primary election, which report shall be for the period beginning on January 1 of the election year for the office the candidate is seeking and ending 12 days before the primary election, inclusive;

(2) the eighth day preceding a general election, which report shall be for the period beginning 11 days before the primary election and ending 12 days before the general election, inclusive;

(3) January 10 of the year after an election year, which report shall be for the period beginning 11 days before the general election and ending on December 31, inclusive;

(4) for any calendar year when no election is held, a report shall be filed on the next January 10 for the preceding calendar year;

(5) a treasurer shall file only the annual report required by subsection (4) for those years when the candidate is not participating in a primary or general election.

(b) Each report required by this section shall state:

(1) Cash on hand on the first day of the reporting period;

(2) the name and address of each person who has made one or more contributions in an aggregate amount or value in excess of \$50 during the election period together with the amount and date of such contributions, including the name and address of every lender, guarantor and endorser when a contribution is in the form of an advance or loan;

(3) the aggregate amount of all proceeds from bona fide sales of political materials such as, but not limited to, political campaign pins, buttons, badges, flags, emblems, hats, banners and literature;

(4) the aggregate amount of contributions for which the name and address of the contributor is not known;

(5) each contribution, rebate, refund or other receipt not otherwise listed;

(6) the total of all receipts;

(7) the name and address of each person to whom expenditures have been made in an aggregate amount or value in excess of \$50, with the amount, date, and purpose of each; the names and addresses of all persons to whom any loan or advance has been made; when an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each;

(8) the name and address of each person from whom an in-kind contribution was received or who has paid for personal services provided without charge to or for any candidate, candidate committee, party committee or political committee, if the contribution is in excess of \$100 and is not otherwise reported under subsection (b)(7), and the amount, date and purpose of the contribution;

(9) the aggregate of all expenditures not otherwise reported under this section; and

(10) the total of expenditures.

(c) In addition to the requirements of subsection (b), every treasurer for any political committee and party committee shall report the following:

(1) (A) The name and address of each candidate for state or local office for whom an expenditure in the form of an in-kind contribution has been made in an aggregate amount or having a fair market value in excess of \$300, with the amount, date and purpose of each. The report shall show in detail the specific service or product provided; and

(B) the name and address of each candidate for state or local office who is the subject of an expenditure which:

(i) Is made without the cooperation or consent of a candidate or candidate committee;

(ii) expressly advocates the nomination, election or defeat of such candidate; and

(iii) is an aggregate amount or having a fair market value in excess of \$300.

(2) The report shall state the amount, date and purpose of the expenditure in the form of an in-kind contribution. The report shall show in detail the specific service or product provided. The reporting requirements imposed by this subsection shall be in addition to all other requirements required by this section.

(d) Treasurers of candidates and of candidate committees shall itemize the purchase of tickets or admissions to testimonial events by a person who purchases such tickets or admissions in an aggregate amount or value in excess of \$50 per event, or who purchases such a ticket or admission at a cost exceeding \$25 per ticket or admission. All other purchases of tickets or admissions to testimonial events shall be reported in an aggregate amount and shall not be subject to the limitations specified in K.S.A. 25-4154, and amendments thereto.

(e) If a contribution or other receipt from a political committee is required to be reported under subsection (b), the report shall include the full name of the organization with which the political committee is connected or affiliated or, a description of the connection to or affiliation with such organization. If, the committee is not connected or affiliated with any one organization, the report shall state the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.

(f) The commission may require any treasurer to file an amended report for any period for which the original report filed by such treasurer contains material errors or omissions. The notice of the errors or omissions shall be part of the public record. The amended report shall be filed within 30 days after notice by the commission.

(g) The commission may require any treasurer to file a report for any period for which the required report is not on file. The notice of the failure to file shall be part of the public record. Such report shall be filed within five days after notice by the commission.

(h) For the purpose of any report required to be filed pursuant to subsection (a) by the treasurer of any candidate seeking nomination by convention or caucus or by the treasurer of the candidate's committee or by the treasurer of any party committee or political committee, the date of the convention or caucus shall be considered the date of the primary election.

(i) If a report is sent by certified or registered mail on or before the day it is due, the mailing shall constitute receipt by that office.

(j) Any report required by this section may be signed by the candidate in lieu of the candidate's treasurer or the treasurer of the candidate's committee.

Sec. 10. K.S.A. 2008 Supp. 46-247 is hereby amended to read as follows: 46-247. The following individuals shall file written statements of substantial interests, as provided in K.S.A. 46-248 to 46-252, inclusive, and amendments thereto:

(a) Legislators and candidates for nomination or election to the legislature.

(b) Individuals holding an elected office in the executive branch of this state, and candidates for nomination or election to any such office.

(c) State officers, employees and members of boards, councils and commissions under the jurisdiction of the head of any state agency who are listed as designees by the head of a state agency pursuant to K.S.A. 46-285, and amendments thereto.

(d) Individuals whose appointment to office is subject to confirmation by the senate whether or not such individual is a state officer or employee.

(e) General counsels for state agencies irrespective of how compensated.

(f) The administrator or executive director of the education commission of the states, the interstate compact on agricultural grain marketing, the Mo-Kan metropolitan development district and agency compact, the Kansas City area transportation district and authority compact, the midwest nuclear compact, the central interstate low-level radioactive waste compact, the multistate tax compact, the Kansas-Oklahoma Arkansas river basin compact, the Kansas-Nebraska Big Blue river compact, and the multistate lottery.

(g) Private consultants under contract with any agency of the state of Kansas to evaluate bids for public contracts or to award public contracts.

(h) From and after January 1, 2003, any faculty member or other employee of a postsecondary educational institution as defined by K.S.A. 74-3201b, and amendments

thereto, who provides consulting services and who, on behalf of or for the benefit of the person for which consulting services are provided:

(1) Promotes or opposes action or nonaction by any federal agency, any state agency as defined by K.S.A. 46-224, and amendments thereto, or any political subdivision of the state or any agency of such political subdivision or a representative of such state agency, political subdivision or agency; or

(2) promotes or opposes action or nonaction relating to the expenditure of public funds of the federal government, the state or political subdivision of the state or agency of the federal government, state or political subdivision of the state.

(i) From and after January 1, 2006; Except as provided by section 11, and amendments thereto, any faculty member who receives an annual salary of \$50,000 or more, other than an adjunct faculty member, who is employed by a state education institution as defined by K.S.A. 76-711, and amendments thereto.

New Sec. 11. (a) The executive officer of any state educational institution as defined by K.S.A. 76-711, and amendments thereto, may require any faculty member who receives an annual salary of \$50,000 or more, other than an adjunct faculty member, to file a written statement of substantial interests with the employing state educational institution in lieu of filing the statements of substantial interests as required by K.S.A. 46-247, and amendments thereto. The executive officer shall notify the governmental ethics commission in writing of such decision to require filing of faculty statements of substantial interests only with the state educational institution.

(b) The written statement of substantial interests filed with a state educational institution pursuant to this section shall, at a minimum, include the information required by K.S.A. 46-229, and amendments thereto, and shall be an open public record. Any conflict of interests information required by the state board of regents or state educational institution that is in addition to that which is required by K.S.A. 46-229, and amendments thereto, may be placed in the faculty member's personnel records file and discretionarily closed in accordance with K.S.A. 45-221, and amendments thereto.

(c) The written statement of substantial interests required by this section shall be in such form as required by the state board of regents and shall be filed annually as part of the state educational institution's appointment or salary notification process, and supplemented as required by the state board of regents.

(d) The provisions of this section shall expire on July 1, 2010.

Sec. 12. K.S.A. 19-201, 19-202, 19-203, 19-204 and 19-204a and K.S.A. 2008 Supp. 25-4148, 25-4156, 25-4156a, 46-247 and 74-2113 are hereby repealed.";

And by renumbering the remaining section accordingly;

In the title, by striking all in lines 12 through 15 and inserting in lieu thereof the following: "AN ACT concerning elections and election related issues; amending K.S.A. 19-201, 19-202, 19-203, 19-204 and 19-204a and K.S.A. 2008 Supp. 25-4148, 25-4156, 46-247 and 74-2113 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 25-4156a.";

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

VICKI SCHMIDT PAT APPLE OLETHA FAUST-GOUDEAU Conferees on part of Senate

STEVE HUEBERT SCOTT SCHWAB TOM SAWYER Conferees on part of House

Senator V. Schmidt moved the Senate adopt the Conference Committee Report on HB 2158.

On roll call, the vote was: Yeas 22, Nays 14, Present and Passing 2, Absent or Not Voting 2.

Yeas: Apple, Barnett, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Kelly, Kultala, Lee, Morris, Ostmeyer, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil.

Nays: Abrams, Brownlee, Čolyer, Haley, Huelskamp, Kelsey, Lynn, Marshall, Masterson, Petersen, Pilcher-Cook, Pyle, Taddiken, Wagle.

Present and Passing: Bruce, McGinn.

Absent or Not Voting: Steineger, Wysong.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: While there are various positive aspects to **House Bill 2158**, the attempt to regulate websites, e-mails, and all other Internet communication is clearly overboard and potentially unconstitutional. By subjecting political e-mails, blogs, editorials, tweets, and websites of our constituents to government scrutiny and possible fines and other penalties if certain language is not included, we are severely limiting lst Amendment protections for political participation. Whether it be the age of the printing press or the Internet, this is not the American thing to do.—TIM HUELSKAMP

Senators Brownlee and Lynn request the record to show they concur with the "Explanation of Vote" offered by Senator Huelskamp on **House Bill 2158**.

MR. PRESIDENT: I vote no on **HB 2158**. I am concerned that well intentioned Kansans will find themselves in violation of Kansas law and face harsh fines whey they engage in internet communications on behalf of a candidate. Political speech and advocacy by individuals should be encouraged and protected in our society.—SUSAN WAGLE

Senator Petersen requests the record to show he concurs with the "Explanation of Vote" offered by Senator Wagle on **HB 2158**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2172**, submits the following report:

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

On page 1, by striking all in lines 16 through 43;

By striking all on pages 2 through 10;

On page 11, by striking all in lines 1 through 8, and inserting the following:

"Section 1. K.S.A. 2008 Supp. 79-3602, as amended by section 1 of 2009 House Bill No. 2321, is hereby amended to read as follows: 79-3602. Except as otherwise provided, as used in the Kansas retailers' sales tax act:

(a) "Agent" means a person appointed by a seller to represent the seller before the member states.

(b) "Agreement" means the multistate agreement entitled the streamlined sales and use tax agreement approved by the streamlined sales tax implementing states at Chicago, Illinois on November 12, 2002.

(c) "Alcoholic beverages" means beverages that are suitable for human consumption and contain .05% or more of alcohol by volume.

(d) "Certified automated system (CAS)" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction.

(e) "Certified service provider (CSP)" means an agent certified under the agreement to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(f) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(g) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(h) "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

(i) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating and packing. Delivery charges shall not include charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser.

(j) "Direct mail" means printed material delivered or distributed by United States mail or other delivery services to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. Direct mail includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. Direct mail does not include multiple items of printed material delivered to a single address.

(k) "Director" means the state director of taxation.

"Educational institution" means any nonprofit school, college and university that (\mathbf{l}) offers education at a level above the twelfth grade, and conducts regular classes and courses of study required for accreditation by, or membership in, the North Central Association of Colleges and Schools, the state board of education, or that otherwise qualify as an "educational institution," as defined by K.S.A. 74-50,103, and amendments thereto. Such phrase shall include: (1) A group of educational institutions that operates exclusively for an educational purpose; (2) nonprofit endowment associations and foundations organized and operated exclusively to receive, hold, invest and administer moneys and property as a permanent fund for the support and sole benefit of an educational institution; (3) nonprofit trusts, foundations and other entities organized and operated principally to hold and own receipts from intercollegiate sporting events and to disburse such receipts, as well as grants and gifts, in the interest of collegiate and intercollegiate athletic programs for the support and sole benefit of an educational institution; and (4) nonprofit trusts, foundations and other entities organized and operated for the primary purpose of encouraging, fostering and conducting scholarly investigations and industrial and other types of research for the support and sole benefit of an educational institution.

(m) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(n) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include alcoholic beverages or tobacco.

(o) "Gross receipts" means the total selling price or the amount received as defined in this act, in money, credits, property or other consideration valued in money from sales at retail within this state; and embraced within the provisions of this act. The taxpayer, may take credit in the report of gross receipts for: (1) An amount equal to the selling price of property returned by the purchaser when the full sale price thereof, including the tax collected, is refunded in cash or by credit; and (2) an amount equal to the allowance given for the trade-in of property.

(p) "Ingredient or component part" means tangible personal property which is necessary or essential to, and which is actually used in and becomes an integral and material part of tangible personal property or services produced, manufactured or compounded for sale by the producer, manufacturer or compounder in its regular course of business. The following items of tangible personal property are hereby declared to be ingredients or component parts, but the listing of such property shall not be deemed to be exclusive nor shall such listing be construed to be a restriction upon, or an indication of, the type or types of property to be included within the definition of "ingredient or component part" as herein set forth:

(1) Containers, labels and shipping cases used in the distribution of property produced, manufactured or compounded for sale which are not to be returned to the producer, manufacturer or compounder for reuse.

(2) Containers, labels, shipping cases, paper bags, drinking straws, paper plates, paper cups, twine and wrapping paper used in the distribution and sale of property taxable under

the provisions of this act by wholesalers and retailers and which is not to be returned to such wholesaler or retailer for reuse.

(3) Seeds and seedlings for the production of plants and plant products produced for resale.

(4) Paper and ink used in the publication of newspapers.

(5) Fertilizer used in the production of plants and plant products produced for resale.

(6) Feed for animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber, fur, or the production of offspring for use for any such purpose or purposes.

(q) "Isolated or occasional sale" means the nonrecurring sale of tangible personal property, or services taxable hereunder by a person not engaged at the time of such sale in the business of selling such property or services. Any religious organization which makes a nonrecurring sale of tangible personal property acquired for the purpose of resale shall be deemed to be not engaged at the time of such sale in the business of selling such property. Such term shall include: (1) Any sale by a bank, savings and loan institution, credit union or any finance company licensed under the provisions of the Kansas uniform consumer credit code of tangible personal property which has been repossessed by any such entity; and (2) any sale of tangible personal property made by an auctioneer or agent on behalf of not more than two principals or households if such sale is nonrecurring and any such principal or household is not engaged at the time of such sale in the business of selling tangible personal property.

(r) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

(1) Lease or rental does not include: (A) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(B) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments; or

(C) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect or set-up the tangible personal property.

(2) Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. 7701(h)(1).

(3) This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the internal revenue code, the uniform commercial code, K.S.A. 84-1-101 et seq. and amendments thereto, or other provisions of federal, state or local law.

(4) This definition will be applied only prospectively from the effective date of this act and will have no retroactive impact on existing leases or rentals.

(s) "Load and leave" means delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

(t) "Member state" means a state that has entered in the agreement, pursuant to provisions of article VIII of the agreement.

(u) "Model 1 seller" means a seller that has selected a CSP as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(v) "Model 2 seller" means a seller that has selected a CAS to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

(w) "Model 3 seller" means a seller that has sales in at least five member states, has total annual sales revenue of at least \$500,000,000, has a proprietary system that calculates the amount of tax due each jurisdiction and has entered into a performance agreement with

the member states that establishes a tax performance standard for the seller. As used in this subsection a seller includes an affiliated group of sellers using the same proprietary system.

(x) "Municipal corporation" means any city incorporated under the laws of Kansas. (y) "Nonprofit blood bank" means any nonprofit place, organization, institution or establishment that is operated wholly or in part for the purpose of obtaining, storing, processing, preparing for transfusing, furnishing, donating or distributing human blood or parts or fractions of single blood units or products derived from single blood units, whether or not any remuneration is paid therefor, or whether such procedures are done for direct therapeutic use or for storage for future use of such products.

(z) "Persons" means any individual, firm, copartnership, joint adventure, association, corporation, estate or trust, receiver or trustee, or any group or combination acting as a unit, and the plural as well as the singular number; and shall specifically mean any city or other political subdivision of the state of Kansas engaging in a business or providing a service specifically taxable under the provisions of this act.

(aa) "Political subdivision" means any municipality, agency or subdivision of the state which is, or shall hereafter be, authorized to levy taxes upon tangible property within the state or which certifies a levy to a municipality, agency or subdivision of the state which is, or shall hereafter be, authorized to levy taxes upon tangible property within the state. Such term also shall include any public building commission, housing, airport, port, metropolitan transit or similar authority established pursuant to law and the horsethief reservoir benefit district established pursuant to K.S.A. 82a-2201, and amendments thereto.

(bb) "Prescription" means an order, formula or recipe issued in any form of oral, written, electronic or other means of transmission by a duly licensed practitioner authorized by the laws of this state.

"Prewritten computer software" means computer software, including prewritten (cc)upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software, except that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.

(dd) "Property which is consumed" means tangible personal property which is essential or necessary to and which is used in the actual process of and consumed, depleted or dissipated within one year in (1) the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, (2) the providing of services, (3) the irrigation of crops, for sale in the regular course of business, or (4) the storage or processing of grain by a public grain warehouse or other grain storage facility, and which is not reusable for such purpose. The following is a listing of tangible personal property, included by way of illustration but not of limitation, which qualifies as property which is consumed:

(A) Insecticides, herbicides, germicides, pesticides, fungicides, fumigants, antibiotics, biologicals, pharmaceuticals, vitamins and chemicals for use in commercial or agricultural production, processing or storage of fruit, vegetables, feeds, seeds, grains, animals or animal products whether fed, injected, applied, combined with or otherwise used;

(B) electricity, gas and water; and

(C) petroleum products, lubricants, chemicals, solvents, reagents and catalysts.

(ee) ""Purchase price" applies to the measure subject to use tax and has the same meaning as sales price.

(ff) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

(gg) "Quasi-municipal corporation" means any county, township, school district, drainage district or any other governmental subdivision in the state of Kansas having authority to receive or hold moneys or funds.

(hh) "Registered under this agreement" means registration by a seller with the member states under the central registration system provided in article IV of the agreement.

(ii) "Retailer" means a seller regularly engaged in the business of selling, leasing or renting tangible personal property at retail or furnishing electrical energy, gas, water, services or entertainment, and selling only to the user or consumer and not for resale.

(jj) "Retail sale" or "sale at retail" means any sale, lease or rental for any purpose other than for resale, sublease or subrent.

(kk) "Sale" or "sales" means the exchange of tangible personal property, as well as the sale thereof for money, and every transaction, conditional or otherwise, for a consideration, constituting a sale, including the sale or furnishing of electrical energy, gas, water, services or entertainment taxable under the terms of this act and including, except as provided in the following provision, the sale of the use of tangible personal property by way of a lease, license to use or the rental thereof regardless of the method by which the title, possession or right to use the tangible personal property is transferred. The term "sale" or "sales" shall not mean the sale of the use of any tangible personal property used as a dwelling by way of a lease or rental thereof for a term of more than 28 consecutive days.

(ll) (1) "Sales or selling price" applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(A) The seller's cost of the property sold;

(B) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller and any other expense of the seller;

(C) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(D) delivery charges; and

(E) installation charges.

(2) "Sales or selling price" includes consideration received by the seller from third parties if:

(A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(D) one of the following criteria is met:

(i) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

(ii)~ the purchaser identifies to the seller that the purchaser is a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group; or

(iii) the price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

(3) "Sales or selling price" shall not include:

(A) Discounts, including cash, term or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(B) interest, financing and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser;

(C) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser;

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(D) the amount equal to the allowance given for the trade-in of property, if separately stated on the invoice, billing or similar document given to the purchaser; and

(E) commencing on July 1, 2006, and ending on June 30, 2009; cash rebates granted by a manufacturer to a purchaser or lessee of a new motor vehicle if paid directly to the retailer as a result of the original sale.

(mm) "Seller" means a person making sales, leases or rentals of personal property or services.

(nn) "Service" means those services described in and taxed under the provisions of K.S.A. 79-3603 and amendments thereto.

(oo) "Sourcing rules" means the rules set forth in K.S.A. 2008 Supp. 79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments thereto, which shall apply to identify and determine the state and local taxing jurisdiction sales or use taxes to pay, or collect and remit on a particular retail sale.

(pp) "Tangible personal property" means personal property that can be seen, weighed, measured, felt or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam and prewritten computer software.

 $\rm (qq)~$ "Taxpayer" means any person obligated to account to the director for taxes collected under the terms of this act.

 (\mathbf{rr}) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco or any other item that contains tobacco.

 $(ss)\,$ "Entity-based exemption" means an exemption based on who purchases the product or who sells the product. An exemption that is available to all individuals shall not be considered an entity-based exemption.

(tt) "Over-the-counter" drug means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The over-the-counter drug label includes: (1) A drug facts panel; or (2) a statement of the active ingredients with a list of those ingredients contained in the compound, substance or preparation. Over-the-counter drugs do not include grooming and hygiene products such as soaps, cleaning solutions, shampoo, toothpaste, antiperspirants and sun tan lotions and screens.

(uu) "Ancillary services" means services that are associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billing, directory assistance, vertical service and voice mail services.

(vv) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.

(ww) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(xx) "Directory assistance" means an ancillary service of providing telephone number information or address information, or both.

(yy) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

(zz) "Voice mail service" means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(aaa) "Telecommunications service" means the electronic transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point, or between or among points. The term telecommunications service includes such transmission, conveyance or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmissions, conveyance or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the federal communications commission as enhanced or value added. Telecommunications service does not include:

(1) Data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an electronic transmission to a purchaser

where such purchaser's primary purpose for the underlying transaction is the processed data or information;

- (2) installation or maintenance of wiring or equipment on a customer's premises;
- (3) tangible personal property;
- (4) advertising, including, but not limited to, directory advertising;
- (5) billing and collection services provided to third parties;
- (6) internet access service;

(7) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S.C. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;

(8) ancillary services; or

(9) digital products delivered electronically, including, but not limited to, software, music, video, reading materials or ring tones.

(bbb) "800 service" means a telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name 800, 855, 866, 877 and 888 toll-free calling, and any subsequent numbers designated by the federal communications commission.

(ccc) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. 900 service does not include the charge for collection services provided by the seller of the telecommunications services to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name 900 service, and any subsequent numbers designated by the federal communications commission.

(ddd) "Value-added non-voice data service" means a service that otherwise meets the definition of telecommunications services in which computer processing applications are used to act on the form, content, code or protocol of the information or data primarily for a purpose other than transmission, conveyance or routing.

(eee) "International" means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. United States includes the District of Columbia or a U.S. territory or possession.

(fff) "Interstate" means a telecommunications service that originates in one United States state, or a United States territory or possession, and terminates in a different United States state or a United States territory or possession.

(ggg) "Intrastate" means a telecommunications service that originates in one United States state or a United States territory or possession, and terminates in the same United States state or a United States territory or possession.";

On page 34, in line 10, by striking "and" the second time it appears; in line 13, after the semicolon, by inserting "and"; after line 13, by inserting the following:

"(24) the Kansas fairgrounds foundation for the purpose of the preservation, renovation and beautification of the Kansas state fairgrounds;";

On page 50, in line 41, by striking "and" the second time it appears; in line 43, after "hunting" by inserting the following: "; and

(gggg) all sales of tangible personal property and services purchased by sheltered living, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing residential and day services for people with developmental disabilities or mental retardation, or both, and all sales of any such property by or on behalf of sheltered living, inc. for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling homes and facilities for sheltered living, inc. for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by sheltered living, inc. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in

the constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities for sheltered living, inc. When sheltered living, inc. contracts for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to sheltered living, inc. a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, sheltered living, inc. shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto";

By striking all on pages 51 through 84;

On page 85, by striking all in lines 1 through 42, and by inserting the following:

"New Sec. 4. If the decedent was a resident of Kansas, the value of an interest in a legal entity that is not publicly traded, including, but not limited to, a partnership, corporation, limited liability company or limited liability partnership, which at the time of the decedent's death owns land that is located in Kansas and treated as land devoted to agricultural use for purposes of K.S.A. 79-1476, and amendments thereto, shall be determined by valuing the land at its most recent valuation pursuant to K.S.A. 79-1476, and amendments thereto. The provisions of this section shall apply to the estates of all decedents dying after December 31, 2006, but before January 1, 2010. The provisions of this section shall be part of and supplemental to the Kansas estate tax act.

Sec. 5. K.S.A. 2008 Supp. 79-15,253 is hereby amended to read as follows: 79-15,253. On January 1, 2010, the provisions of K.S.A. 2008 Supp. 79-15,201 through 79-15,253, *and section 4*, and amendments thereto, are hereby repealed.

Sec. 6. K.S.A. 2008 Supp. 79-3230 is hereby amended to read as follows: 79-3230. (a) The amount of income taxes imposed by this act shall be assessed within three years after the original return was filed, the tax as shown to be due on the return was paid or within one year after an amended return is filed, whichever is the later date, and no proceedings in court for the collection of such taxes shall be begun after the expiration of such period. For purposes of this act any return filed before the 15th day of the fourth month following the close of the taxable year shall be considered as being filed on the 15th day of the fourth month following the close of the taxable year, and any tax shown to be due on the return and paid before the 15th day of the fourth month following the close of the taxable year, shall be deemed to have been paid on the 15th day of the fourth month following the close of the taxable year.

(b) In the case of a false or fraudulent return with intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun at any time.

(c) No claim shall be allowed for credit or refund of overpayment of any tax imposed by this act unless filed by the taxpayer within three years from the date the original return was filed *due*, *including any extension allowed pursuant to law*, or two years from the date the tax claimed to be refunded or against which the credit is claimed was paid, whichever of such periods expires later, or if no return was filed by the taxpayer, within two years from the date the tax claimed to be refunded or against which the credit is claimed was paid. Where the assessment of any income tax imposed by this act has been made within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun within one year after the period of limitation as defined in this act.

(d) In case a taxpayer has made claim for a refund, the taxpayer shall have the right to commence a suit for the recovery of the refund at the expiration of six months after the filing of the claim for refund, if no action has been taken by the director of taxation.

(e) Before the expiration of time prescribed in this section for the assessment of additional tax or the filing of a claim for a refund, the director of taxation is authorized to enter into an agreement in writing with the taxpayer consenting to the extension of the periods of limitations as defined in this act for the assessment of tax or for the filing of a claim for refund, at any time prior to the expiration of the period of limitations. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. A copy of all such agreements and extensions thereof shall be filed with the director of taxation within 30 days after their execution.

(f) Any taxpayer whose income has been adjusted by the federal internal revenue service or by the income tax collection agency of another state is required to report such adjustments to the Kansas department of revenue by mail within 180 days of the date the federal or other state adjustments are paid, agreed to or become final, whichever is earlier. Such adjustments shall be reported by filing an amended return for the applicable taxable year and a copy of the federal or state revenue agent's report detailing such adjustments. In the event such taxpayer is a corporation, such report shall be by certified or registered mail.

Notwithstanding the provisions of subsection (a) or (c) of this section, additional income taxes may be assessed and proceedings in court for collection of such taxes may be commenced and any refund or credit may be allowed by the director of taxation within 180 days following receipt of any such report of adjustments by the Kansas department of revenue, or within two years from the date the tax claimed to be refunded or, against which the credit is claimed was paid, whichever period expires later. No assessment shall be made nor any refund or credit shall be allowable under the provisions of this paragraph subsection except to the extent the same is attributable to changes in the taxpayer's income due to adjustments indicated by such report. *Failure by the taxpayer to comply with the provisions of this subsection shall not bar the Kansas department of revenue from assessing additional taxes or proceeding in court to collect such taxes.*

(g) In the event of failure to comply with the provisions of this section, the statute of limitations shall be tolled Failure by the taxpayer to comply with the requirements for filing returns shall toll the periods of limitation for the Kansas department of revenue to assess or collect taxes.

Sec. 7. K.S.A. 2008 Supp. 79-4502 is hereby amended to read as follows: 79-4502. As used in this act, unless the context clearly indicates otherwise:

"Income" means the sum of adjusted gross income under the Kansas income tax (a)act, maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including but not limited to, all payments received under the railroad retirement act, except disability payments, payments received under the federal social security act, except that for determination of what constitutes income such amount shall not exceed 50% of any such social security payments and shall not include any social security payments to a claimant who prior to attaining full retirement age had been receiving disability payments under the federal social security act in an amount not to exceed the amount of such disability payments or 50% of any such social security payments, whichever is greater, all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of "loss of time" insurance. Income does not include gifts from nongovernmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. Income does not

include veterans disability pensions. Income does not include disability payments received under the federal social security act.

(b) "Household" means a claimant, a claimant and spouse who occupy the homestead or a claimant and one or more individuals not related as husband and wife who together occupy a homestead.

 $(c)^{2}$ "Household income" means all income received by all persons of a household in a calendar year while members of such household.

(d) "Homestead" means the dwelling, or any part thereof, whether owned or rented, which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. "Owned" includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

(e) "Claimant" means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in K.S.A. 79-4503, and amendments thereto, both domiciled in this state and was: (1) A person having a disability; (2) a person who is 55 years of age or older $\overline{\sigma(3)}$; (3) a disabled veteran; (4) the surviving spouse of active duty military personnel who died in the line of duty; or (5) a person other than a person included under (1) $\overline{\sigma}$, (2), (3) or (4) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar year immediately preceding the year in which a claim is filed under this act. The surviving spouse of a disabled veteran who was receiving benefits pursuant to subsection (e)(3) of this section at the time of the veterans' death, shall be eligible to continue to receive benefits until such time the surviving spouse remarries.

When a homestead is occupied by two or more individuals and more than one of the individuals is able to qualify as a claimant, the individuals may determine between them as to whom the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue whose decision shall be final.

(f) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's homestead in 1979 or any calendar year thereafter by the state of Kansas and the political and taxing subdivisions of the state. When a homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant's household. For purposes of this act, property taxes are "levied" when the tax roll is delivered to the local treasurer with the treasurer's warrant for collection. When a claimant and household own their homestead part of a calendar year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied as a homestead by the claimant's household at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead in the year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the household as its homestead during the year. Whenever a homestead is an integral part of a larger unit such as a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

(g) "Disability" means:

(1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience,

engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; for purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time.

(h) "Blindness" means central visual acuity of $^{20}2_{000}$ or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of $^{20}2_{000}$ or less.

(i) "Rent constituting property taxes accrued" means 15% of the gross rent actually paid in cash or its equivalent in 2007 or any taxable year thereafter by a claimant and claimant's household solely for the right of occupancy of a Kansas homestead on which ad valorem property taxes were levied in full for that year. When a household occupies two or more different homesteads in the same calendar year, rent constituting property taxes accrued shall be computed by adding the rent constituting property taxes accrued for each property rented by the household while occupied by the household as its homestead during the year.

(j) "Gross rent" means the rental paid at arm's length solely for the right of occupancy of a homestead or space rental paid to a landlord for the parking of a mobile home, exclusive of charges for any utilities, services, furniture and furnishings or personal property appliances furnished by the landlord as a part of the rental agreement, whether or not expressly set out in the rental agreement. Whenever the director of taxation finds that the landlord and tenant have not dealt with each other at arms length and that the gross rent charge was excessive, the director may adjust the gross rent to a reasonable amount for the purposes of the claim.

(k) "Disabled veteran" means a person who is a resident of Kansas and has been honorably discharged from active service in any branch of the armed forces of the United States or Kansas national guard and who has been certified by the United States department of veterans affairs or its successor to have a 50% permanent disability sustained through military action or accident or resulting from disease contracted while in such active service."; And by renumbering the remaining sections accordingly;

Also on page 85, in line 43, by striking all after "Supp." and by inserting "79-15,253, 79-3230, 79-3602, as amended by section 1 of 2009 House Bill No. 2321, 79-3603, 79-3606 and 79-4502";

On page 1, in the title, in line 10, by striking "sales" the first time it appears; in line 11, after "exemptions" by inserting "; valuation of land devoted to agricultural use for estate tax purposes; periods of limitation for income tax refunds and adjustments of income; home-stead property tax refunds;"; in line 12, by striking "79-3602, 79-3603 and 79-3606" and inserting "79-15,253, 79-3230, 79-3602, as amended by section 1 of 2009 House Bill No. 2321, 79-3603, 79-3606 and 79-4502";

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

LESLIE DONOVAN, SR. DEREK SCHMIDT TOM HOLLAND Conferees on part of Senate

RICHARD CARLSON JEFF KING Conferees on part of House Senator Donovan moved the Senate adopt the Conference Committee Report on HB 2172.

On roll call, the vote was: Yeas 30, Nays 8, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Holland, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Wagle.

Nays: Francisco, Haley, Hensley, Kelly, Kultala, Lee, Owens, Vratil.

Absent or Not Voting: Steineger, Wysong.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I really wanted to vote for **HB 2172** because of the sales tax exemption for Goodwill Industries and the Homestead Property Tax Refund Program which would include disabled veterans and their spouses. Those two entities represent only about 3.5% of the potential revenue in this conference committee report. However, I cannot in good conscience support this report because I believe we need to consider all revenue options in addition to the significant budget cuts we have already passed out of this body during these tough economic times.—KELLY KULTALA

Senators Haley and Kelly request the record to show they concur with the "Explanation of Vote" offered by Senator Kultala on **HB 2172.**

MR. PRESIDENT: In light of the budget situation our state is facing, I cannot vote for **HB 2172.** Even though the bill included several sales tax exemptions, a clarification to the estate tax provisions dealing with the valuation of agricultural land, and an expansion of who would be eligible to claim the Homestead Property Tax Refund program, all of which I would very much have liked to have been able to support, I cannot vote for this bill. When the state is being forced to cut funding for K-12 education and for programs for our senior citizens as well as not having the financial resources to increase support for Home and Community Based Service for our disability populations, I cannot vote for legislation which would exacerbate that very situation.—JANIS LEE

Senators Francisco, Haley, Hensley, and Kelly request the record to show they concur with the "Explanation of Vote" offered by Senator Lee on **HB 2172**.

MR. PRESIDENT: I vote aye on the conference committee report on **House Bill 2172**. This bill contains good tax policy. In difficult fiscal times, I believe that any tax reductions this year should be offset so that the net effect on state revenues is flat. **House Bill 2172** and our other actions today accomplish that goal.

This conference committee report contains at least four provisions for which enactment of **House Bill 2172** is required to maintain the status quo. Oddly, however, the official fiscal note on this bill only acknowledges the lost revenues from this bill's effect on three of those provisions. It ignores the gained revenues from changing the fourth. I believe fiscal notes should be consistent in how they count the cost of inaction. If the revenue gain from enactment of the **House Bill 2172**, estimated in committee testimony at about \$5 million per year, were counted, then the net fiscal note for this bill becomes positive in the first year. Coupled with the positive fiscal note from the other tax bill we approved today, the net effect of the Senate's actions on tax policy today is revenue neutral.—DEREK SCHMIDT

Senators Abrams, Brownlee, Lynn, McGinn, Ostmeyer, Petersen, and Teichman request the record to show they concur with the "Explanation of Vote" offered by Senator D. Schmidt on **House Bill 2172.**

MR. PRESIDENT: I vote no on the conference committee report on **House Bill 2172** because it further erodes the state sales tax base. The charitable organizations benefitting from this bill are worthy, but we must draw the line on sales tax exemptions somewhere. We now have over 100 sales tax exemptions. This bill is estimated to reduce state revenue in 2010 by $\$4\frac{1}{2}$ million and a total of \$43.6 million over five years. We will wish we had this revenue when we labor to pass the Omnibus budget. Although the motives are good, the results of this bill are bad. We cannot afford **House Bill 2172.**—JOHN VRATIL

Senators Francisco, Haley, Hensley, Kelly and Owens request the record to show they concur with the "Explanation of Vote" offered by Senator Vratil on **House Bill 2172**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to HB 2260, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2260, as follows:

On page 2, in line 43, by striking all after "dwelling";

On page 3, by striking all in line 1; in line 2, by striking "greater";

On page 6, in line 15, by striking "\$10,000" and inserting "\$2,000"; On page 7, in line 24, after "of", where it appears for the first time, by inserting "any misdemeanor or";

On page 8, in line 26, by striking "July 1, 2010" and inserting "January 1, 2010"; On page 9, in line 41, by striking "6" and inserting "8";

On page 12, in line 27, by striking "\$10,000" and inserting "\$2,000"; in line 29, by striking "\$10,000" and inserting "\$2,000";

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

DAVID WYSONG JULIA LYNN TOM HOLLAND Conferees on part of Senate

STEVEN R. BRUNK JOHN C. GRANGE LOUIS E. RUIZ Conferees on part of House

Senator Wysong moved the Senate adopt the Conference Committee Report on S Sub for HB 2260.

On roll call, the vote was: Yeas 36, Nays 4, Present and Passing 0, Absent or Not Voting 0

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Ostmeyer, Pilcher-Cook, Pyle.

The Conference Committee report was adopted.

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on Substitute for HB 2008.

The House adopts the conference committee report on Senate Substitute for HB 2096.

The House adopts the conference committee report on Senate Substitute for HB 2126.

The House adopts the conference committee report on HB 2292.

The House adopts the conference committee report on Substitute for SB 28.

The House adopts the conference committee report on SB 41.

The House adopts the conference committee report on SB 97.

The House adopts the conference committee report on SB 161.

The House adopts the conference committee report on SB 212.

The House not adopts the conference committee report on HB 2250.

The House not adopts the conference committee report on **SB 84**, requests a conference and appoints Representatives Aurand, Horst and Winn as second conferees on the part of the House.

The House nonconcurs in Senate amendments to Senate Substitute for HB 2085, requests a conference and appoints Representatives Powell, Fund and Svaty as conferees on the part of the House.

The House nonconcurs in Senate amendments to Senate Substitute for HB 2267, requests a conference and appoints Representatives Kinzer, Whitham and Pauls as conferees on the part of the House.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 28**, 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 21 through 43;

By striking all on pages 2 through 12;

On page 13, by striking all in lines 1 through 6 and inserting the following:

"Section 1. K.S.A. 2008 Supp. 60-4104 is hereby amended to read as follows: 60-4104. Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

(a) All offenses which statutorily and specifically authorize forfeiture;

(b) violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto;

(c) theft which is classified as a felony violation pursuant to K.S.A. 21-3701, and amendments thereto, in which the property taken was livestock;

(d) unlawful discharge of a firearm, K.S.A. 21-4219, and amendments thereto;

(e) money laundering, K.S.A. 65-4142, and amendments thereto;

(f) gambling, K.S.A. 21-4303, and amendments thereto, and commercial gambling, K.S.A. 21-4304, and amendments thereto;

(g) counterfeiting, K.S.A. 2006 Supp. 21-3763, and amendments thereto;

- (h) violations of K.S.A. 2006 Supp. 21-4019, and amendments thereto;
- (i) medicaid fraud, K.S.A. 21-3844 et seq., and amendments thereto;

 (j) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;

(k) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;

(l) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;

(m) furtherance of terrorism or illegal use of weapons of mass destruction, K.S.A. 2006 Supp. 21-3451, and amendments thereto;

(n) unlawful conduct of dog fighting and unlawful possession of dog fighting paraphernalia, K.S.A. 21-4315, and amendments thereto;

(o) unlawful conduct of cockfighting and unlawful possession of cockfighting paraphernalia, K.S.A. 21-4319, and amendments thereto; and

(p) prostitution, K.S.A. 21-3512, and amendments thereto, promoting prostitution, K.S.A. 21-3513, and amendments thereto, and patronizing a prostitute, K.S.A. 21-3515, and amendments thereto.

Sec. 2. K.S.A. 2008 Supp. 60-4104 is hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all in lines 12 through 18, and inserting "AN ACT concerning civil procedure; relating to covered offenses and conduct giving rise to forfeiture; amending K.S.A. 2008 Supp. 60-4104 and repealing the existing section.";

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

PAT COLLOTON JOE PATTON MELODY MCCRAY-MILLER Conferees on part of House

THOMAS C. OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate Senator Owens moved the Senate adopt the Conference Committee Report on Sub SB 28.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Steineger, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 97**, 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 amendments, as follows:

On page 1, by striking lines 16 through 35, and inserting the following:

"New Section 1. (a) The provisions of sections 1 through 7, and amendments thereto, shall be known and may be cited as the promoting employment across Kansas act.

(b) It shall be the intent of this act to foster economic development and the creation of new jobs and opportunities for the citizens of Kansas through incentivizing the repatriation of business facilities, other operations and jobs from foreign countries and to incentivize the relocation of business facilities, other operations and jobs from other states to Kansas. The primary objective of this legislation is economic development for Kansas. The state of Kansas, the secretary of the department of commerce and the department of commerce shall solicit and approve applications by qualified companies pursuant to this act.

New Sec. 2. As used in this act, unless the context otherwise requires:

(a) "Act" means the provisions of sections 1 through 7, and amendments thereto.

(b) "County average wage" means the average wage paid to employees located in the county where the qualified company intends to employ new employees as reported by the department of labor in its annual report for the previous year.

(c) "Department" means the department of commerce.

(d) "High-impact project" means a business development project for which the qualified company shall meet the requirements of subsection (c) of section 3, and amendments thereto.

(e) "NAICS" means the North American industry classification system.

(f) "Metropolitan county" means the county of Douglas, Johnson, Sedgwick, Shawnee or Wyandotte.

(g) "New employee" means a person newly employed by the qualified company in the qualified company's business operating in Kansas during the taxable year for which benefits are sought under section 3, and amendments thereto. A person shall be deemed to be so engaged if such person performs duties in Kansas in connection with the operation of the Kansas business on: (1) A regular, full-time basis; or (2) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week throughout the taxable year. Employees acquired or relocated to Kansas from another state through an expansion or relocation of a business operation to Kansas from another state shall be considered as new employees.

(h) "Non-metropolitan county" means any county that is not a metropolitan county.

(i) (1) "Qualified company" means any corporation, partnership or other entity, organized for profit making available to its full-time employees adequate health insurance coverage and paying at least 50% of the premium for such health insurance, which meets the requirements of section 3, and amendments thereto.

(2) "Qualified company" shall not include any corporation, partnership or other entity:
 (A) Which is identified by any of the following NAICS code groups, sectors or subsectors:

(i) Industry group 7132 or 8131;

(ii) sectors 44, 45, 61, 92 or 221 (including water and sewer services); or

(iii) subsector 722;

(B) which is a bioscience company, as defined in K.S.A. 2008 Supp. 74-99b33, and amendments thereto;

 $(C) \;\;$ which is delinquent in the payment of any nonprotested taxes or any other amounts due to the federal government, the state of Kansas or any other political taxing subdivision; or

(D) which has filed for or has publicly announced its intention to file for bankruptcy protection.

(3) Notwithstanding any provision of this subsection, except for paragraphs (2)(B), (C) and (D), a company may be deemed a qualified company if such company's headquarters or administrative offices located in this state serve an international or multi-state territory and such company meets the requirements of section 3, and amendments thereto.

(j) "Secretary" means the secretary of the department of commerce.

New Sec. 3. (a) In order to qualify for benefits under this act a qualified company shall relocate an existing business facility, office, department or other operation located outside the state of Kansas, whether located in a foreign country or another state, and locate the jobs from such business facility, office, department or other operation to Kansas. A qualified company may contract with an unrelated third party to perform services whereby the third party serves as the legal employer of the new employees providing services to the qualified company and such services are performed in Kansas and the third party and the new employees are subject to Kansas state withholding.

(b) Any qualified company that locates its business operation in a metropolitan county and will hire at least 10 new employees within two years from the date the qualified company enters into an agreement with the secretary pursuant to section 4, and amendments thereto, or any qualified company that locates its business operation in a non-metropolitan county and will hire at least five new employees within two years from the date the qualified company enters into an agreement with the secretary pursuant to section 4, and amendments thereto, shall be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such new employees for a period of:

(1) Five years if the new employees are compensated at a rate equal to at least 100% of the county average wage;

(2) six years if the new employees are compensated at a rate equal to at least 110% of the county average wage; or

(3) $\,$ seven years if the new employees are compensated at a rate equal to at least 120% of the county average wage.

(c) Any qualified company that engages in a high-impact project whereby the qualified company will hire at least 100 new employees within five years from the date the qualified company enters into an agreement with the secretary pursuant to section 4, and amendments thereto, shall be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such new employees for a period of:

(1) Seven years if the new employees are compensated at a rate equal to at least 100% of the county average wage;

(2) eight years if the new employees are compensated at a rate equal to at least 110% of the county average wage;

(3) nine years if the new employees are compensated at a rate equal to at least 120% of the county average wage; or

(4) ten years if the new employees are compensated at a rate equal to at least 140% of the county average wage.

(d) In the event that a qualified company contracts with a third party as described in paragraphs (a)(3) and (4), the third party shall remit payments equal to the amount of Kansas payroll withholding taxes the qualified company is eligible to retain under this section to the qualified company, and report such amount to the department of revenue as required pursuant to subsection (a) of section 5, and amendments thereto.

New Sec. 4. (a) Any qualified company meeting the requirements of section 3, and amendments thereto, may apply to the secretary for benefits under this act. The application shall be submitted on a form and in a manner prescribed by the secretary, and shall include:

(1) Evidence that the applicant is a qualified company; and (2) evidence that the applicant meets the requirements of section 3, and amendments thereto.

(b) The secretary shall either approve or disapprove the application. Any qualified company whose application is approved shall be eligible to receive benefits under this act as of the date such qualified company enters into an agreement with the secretary in accordance with this section.

(c) Upon approval of an application for benefits under this act, the secretary may enter into an agreement with the qualified company for benefits under this act. If necessary, the secretary may also enter into an agreement with any third party described in subsection (a) of section 3, and amendments thereto, or such third party may be a party to the agreement between the qualified company and the secretary. The agreement shall commit the secretary to certify to the secretary of revenue: (1) That the qualified company is eligible to receive benefits under this act; (2) the number of new employees hired by the qualified company; and (3) the amount of gross wages being paid to each new employee.

(d) The agreement between the qualified company and the secretary shall be entered into before any benefits may be provided under this act, and shall specify that should the qualified company fail to comply with the terms and conditions set forth in the agreement, or fails to comply with the provisions set forth in this act, the secretary may terminate the agreement, and the qualified company shall not be entitled to any further benefits provided under this act and shall be required to remit to the state an amount equal to the aggregate Kansas payroll withholding taxes retained by the qualified company, or remitted to the qualified company by a third party, pursuant to this act as of the date the agreement is terminated.

(e) A qualified company that is already receiving benefits pursuant to this act may apply to the secretary for additional benefits if the qualified company meets the requirements of section 3, and amendments thereto.

(f) A qualified company seeking benefits shall not be allowed to participate in the IM-PACT program, or any program pursuant to K.S.A. 74-50,102, and amendments thereto, or any other program in which any portion of such qualified company's Kansas payroll withholding taxes have been pledged to finance indebtedness or transferred to or for the benefit of such company. A qualified company shall not be allowed to claim any credits under K.S.A. 79-32,153, 79-32,160a or 79-32,182b, and amendments thereto, if such credits would othervise be earned for the hiring of new employees and the qualified company has retained any Kansas payroll withholding taxes from wages of such employees.

(g) The secretary shall adopt rules and regulations necessary to implement and administer the provisions of this act.

New Sec. 5. (a) Any qualified company eligible to receive benefits pursuant to section 3, and amendments thereto, shall complete and submit to the department of revenue the amount of Kansas payroll withholding tax being retained by the qualified company pursuant to this act in a manner prescribed by the director of taxation.

(b) The secretary of revenue shall adopt rules and regulations necessary to implement and administer the provisions of this act. The secretary of revenue and the secretary of commerce shall work together to coordinate a set of procedures to implement the provisions of this act.

New Sec. 6. The secretary shall conduct an annual review of the activities undertaken by a qualified company pursuant to this act to ensure that the qualified company is in compliance with the provisions of this act, any rules and regulations adopted by the secretary with respect to this act and the agreement described in section 4, and amendments thereto. The books and records concerning employment and wages of any employees for which the qualified company or third party has retained any Kansas payroll withholding taxes shall be available for inspection by the secretary or the secretary's duly authorized agents or employees at all times during business hours. The secretary may request the department of revenue to audit the qualified company or third party for compliance with the provisions of this act.

New Sec. 7. The secretary shall transmit annually to the governor, the standing committees on taxation and assessment and commerce of the senate, the standing committees on taxation and economic development and tourism of the house of representatives and the joint committee on economic development, or any successor committee, a report, based on information received from each qualified company receiving benefits under this act, describing the following:

(a) The names of the qualified companies;

(b) the types of qualified companies utilizing the act;

(c) the location of such companies and the location of such companies' business operations in Kansas;

(d) the number of new employees hired;

(e) the wages paid for such new employees;

(f) the annual amount of benefits provided under this act;

(g) the estimated net state fiscal impact, including the direct and indirect new state taxes derived from the new employees hired; and

(h) $\;$ an estimate of the multiplier effect on the Kansas economy of the benefits received under this act.

Sec. 8. K.S.A. 2008 Supp. 79-3234 is hereby amended to read as follows: 79-3234. (a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106, K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer or employee engaged in the administration of this act to engage in the business or profession of tax accounting or to accept employment, with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) The secretary or the secretary's designee may: (1) Publish statistics, so classified as to prevent the identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or other legal representatives of the state;

(3) provide the post auditor access to all income tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

(4) disclose taxpayer information from income tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) disclose to the secretary of commerce *the following*: (A) Specific taxpayer information related to financial information previously submitted by the taxpayer to the secretary of commerce concerning or relevant to any income tax credits, for purposes of verification of such information or evaluating the effectiveness of any tax credit program administered by the secretary of commerce; and (B) findings related to a compliance audit conducted by the department of revenue upon the request of the secretary of commerce pursuant to section 6, and amendments thereto;

(6) disclose income tax returns to the state gaming agency to be used solely for the purpose of determining qualifications of licensees of and applicants for licensure in tribal gaming. Any information received by the state gaming agency shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission;

(7) disclose the taxpayer's name, last known address and residency status to the department of wildlife and parks to be used solely in its license fraud investigations;

(8) disclose the name, residence address, employer or Kansas adjusted gross income of a taxpayer who may have a duty of support in a title IV-D case to the secretary of the Kansas department of social and rehabilitation services for use solely in administrative or judicial proceedings to establish, modify or enforce such support obligation in a title IV-D case. In addition to any other limits on use, such use shall be allowed only where subject to a protective order which prohibits disclosure outside of the title IV-D proceeding. As used in this section, "title IV-D case" means a case being administered pursuant to part D of title IV of the federal social security act (42 U.S.C. §651 et seq.) and amendments thereto. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e);

(9) permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax laws, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States;

(10) communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer;

(11) communicate to the executive director of the Kansas racing commission as to whether a person, partnership or corporation has failed to meet any tax obligation to the state of Kansas for the purpose of determining whether such person, partnership or corporation is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act;

(12) provide such information to the executive director of the Kansas public employees retirement system for the purpose of determining that certain individuals' reported compensation is in compliance with the Kansas public employees retirement act at K.S.A. 74-4901 et seq., and amendments thereto; and

(13) provide taxpayer information of persons suspected of violating K.S.A. 2008 Supp. 44-766, and amendments thereto, to the staff attorneys of the department of labor for the purpose of determining compliance by any person with the provisions of K.S.A. 2008 Supp. 44-766, and amendments thereto, which information shall be limited to withholding tax and payroll information, the identity of any person that has been or is currently being audited or investigated in connection with the administration and enforcement of the withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., as amended, and the results or status of such audit or investigation.

(d) Any person receiving information under the provisions of subsection (c) shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e).

(e) Any violation of subsection (b) or (c) is a class A nonperson misdemeanor and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(f) Nothing in this section shall be construed to allow disclosure of the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information, where such disclosure is prohibited by the federal internal revenue code as in effect on September 1, 1996, and amendments thereto, related federal internal revenue rules or regulations, or other federal law.

Sec. 9. K.S.A. 2008 Supp. 79-3234 is hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 12 by striking all after "ACT"; by striking all in line 13 and inserting "creating the promoting employment across Kansas act; amending K.S.A. 2008 Supp. 79-3234 and repealing the existing section.";

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

RICHARD CARLSON JEFF KING JULIE MENGHINI Conferees on part of House

LESLIE DONOVAN, SR. JULIA LYNN TOM HOLLAND *Conferees on part of Senate*

Senator Donovan moved the Senate adopt the Conference Committee Report on **SB 97**. On roll call, the vote was: Yeas 37, Nays 0, Present and Passing 1, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Present and Passing: Francisco.

Absent or Not Voting: Steineger, Wysong.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I strongly support **SB 97**. Last month we lost 9700 jobs in Kansas, and just last week the number of Kansans requesting unemployment increased dramatically.

The PEAK Act is a major economic shot in the arm when we need it most. It will create jobs that otherwise would never come to Kansas.

Furthermore the fiscal note shows how we should look at the economic impact of all major bills.

We need to create jobs in Kansas. This is a great step forward.—JEFF COLYER

Senators Apple, Brownlee, Donovan, Lynn and Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Colyer on **SB 97**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 161**, 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 amendments, as follows:

On page 2, by striking all in lines 36 through 38 and inserting the following:

"Sec. 2. K.S.A. 2008 Supp. 72-6426 is hereby amended to read as follows: 72-6426. (a) There is hereby established in every district a fund which shall be called the contingency reserve fund. Such fund shall consist of all moneys deposited therein or transferred thereto according to law. The fund shall be maintained for payment of expenses of a district attributable to financial contingencies as determined by the board. Except as otherwise provided in subsection (b), at no time in any school year shall the amount maintained in the fund exceed an amount equal to 6% of the general fund budget of the district for the school year. (b) In any school year,

(b) (1) Except as otherwise provided in subsection (c), at no time in school year 2008-2009 through school year 2011-2012 shall the amount maintained in the contingency reserve fund exceed an amount equal to 10% of the general fund budget of the district for the school year.

(2) Except as otherwise provided in subsection (c), at no time in school year 2012-2013 or any school year thereafter shall the amount maintained in the contingency reserve fund exceed an amount equal to 6% of the general fund budget of the district for the school year.

(c) (1) If the amount in the contingency reserve fund of a district is in excess of the amount authorized under subsection (a) to be maintained in the fund (b), and if such excess amount is the result of a reduction in the general fund budget of the district for the school year because of a decrease in enrollment, the district may maintain the excess amount in the fund until depletion of such excess amount by expenditure from the fund for the purposes thereof.

(2) The limitation on the amount which may be maintained in the contingency reserve fund imposed under subsection (b) shall not apply to any district whose state financial aid is computed under the provisions of K.S.A. 72-6445a, and amendments thereto. Any such district may maintain the excess amount in the fund until depletion of such excess amount by expenditure from the fund for the purposes thereof.

Sec. 3. K.S.A. 2008 Supp. 12-1928 and 72-6426 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.";

In the title, by striking all in lines 10 and 11 and inserting "AN ACT concerning certain municipalities; relating to certain funds thereof; amending K.S.A. 2008 Supp. 12-1928 and 72-6426 and repealing the existing sections.";

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

CLAY AURAND DEENA HORST VALDENIA WINN Conferees on part of House

JEAN SCHODORF JOHN VRATIL ANTHONY HENSLEY Conferees on part of Senate

Senator Schodorf moved the Senate adopt the Conference Committee Report on SB 161.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Steineger, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 212**, 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 amendments, as follows:

On page 3, by striking all in lines 7 through 12;

On page 4, in line 5, by striking "farm winery";

On page 6, by striking all in lines 27 through 33;

On page 7, in line 14, by striking "or" and inserting a comma; also in line 14, after "retailer's" by inserting "or special order shipping"; by striking all in line 43;

On page 8, by striking all in line 1 and inserting the following:

"Sec. 6. K.S.A. 41-2642 is hereby amended to read as follows: 41-2642. (a) A license for a drinking establishment shall allow the licensee to offer for sale, sell and serve alcoholic

liquor for consumption on the licensed premises which may be open to the public, but only if such premises are located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November 1986, or (B) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646 and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646 and amendments thereto.

(b) A drinking establishment shall be required to derive from sales of food for consumption on the licensed premises not less than 30% of all the establishment's gross receipts from sales of food and beverages on such premises unless the licensed premises are located in a county where the qualified electors of the county:

(1) Have approved, at an election pursuant to K.S.A. 41-2646 and amendments thereto, a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646 and amendments thereto.

(c) A drinking establishment shall specify in the application for a license or renewal of a license the premises to be licensed, which may include all premises which are in close proximity and are under the control of the applicant or licensee.

(d) Notwithstanding any other provision of law to the contrary, any hotel of which the entire premises are licensed as a drinking establishment or as a drinking establishment/ caterer may sell alcoholic liquor or cereal malt beverage by means of minibars located in guest rooms of such hotel, subject to the following:

(1) The key, magnetic card or other device required to attain access to a minibar in a guest room shall be provided only to guests who are registered to stay in such room and who are 21 or more years of age;

(2) containers or packages of spirits or wine sold by means of a minibar shall hold not less than 50 nor more than 200 milliliters; and

(3) a minibar shall be restocked with alcoholic liquor or cereal malt beverage only during hours when the hotel is permitted to sell alcoholic liquor and cereal malt beverage as a drinking establishment.

(e) A drinking establishment may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

Sec. 7. K.S.A. 41-2637 is hereby amended to read as follows: 41-2637. (a) A license for a class A club shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members and their families, and guests accompanying them.

(b) (1) Subject to the provisions of subsection (b)(2), any two or more class A or class B clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club which is a party to such agreement may sell, offer for sale and serve, to any person who is a member of another club which is a party to such agreement, alcoholic liquor for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

(2) A class B club may enter into a reciprocal agreement authorized by subsection (b)(1) only if the class B club is a restaurant.

(c) A licensee may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

Sec. 8. K.S.A. 41-2641 is hereby amended to read as follows: 41-2641. (a) A license for a class B club shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members of such club and guests accompanying them.

(b) (1) Subject to the provisions of subsection (b)(2), any two or more class A or class B clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club which is a party to such agreement may sell, offer for sale and serve, to any person who is a member of another club which is a party to such agreement, alcoholic liquor for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

(2) A class B club may enter into a reciprocal agreement authorized by subsection (b)(1) only if the class B club is a restaurant.

(c) Except as provided by subsection (d), an applicant for membership in a class B club shall, before becoming a member of such club:

(1) Be screened by the club for good moral character;

(2) pay an annual membership fee of not less than \$10; and

(3) wait for a period of 10 days after completion of the application form and payment of the membership fee.

(d) $% \left(A_{1}^{\prime }\right) =0$ Notwithstanding the membership fee and waiting period requirement of subsection (c):

(1) Any class B club located on the premises of a hotel or RV resort may establish rules whereby a guest, who registered at the hotel or RV resort and who is not a resident of the county in which the club is located, may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel or RV resort and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

(2) Any class B club located on property which is owned or operated by a municipal airport authority and upon which consumption of alcoholic liquor is authorized by law may establish rules whereby an air traveler who is a holder of a current airline ticket may file application for temporary membership in such club for the day such air traveler's ticket is valid, and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

(3) Any class B club may establish rules whereby military personnel of the armed forces of the United States on temporary duty and housed at or near any military installation located within the exterior boundaries of the state of Kansas may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of the training, not to exceed 20 weeks. Any person wishing to make application for temporary duty orders to the club. Temporary membership issued under this subsection (d)(3) shall present the temporary duty orders to the waiting period or fee requirements of this section.

(4) Any class B club may enter into a written agreement with a hotel or RV resort whereby a guest who is registered at the hotel or RV resort and who is not a resident of the county in which the club is located may file application for temporary membership in such club. The temporary membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel or RV resort and shall not be subject to the waiting period or dues requirement of this section. A club may enter into a written agreement with a hotel or RV resort pursuant to this provision only if (A) the hotel or RV resort is located in the same county as the club, (B) there is no class B club located on the premises of the hotel or RV resort and (C) no other club has entered into a written agreement with the hotel or RV resort to this section.

(5) Any class B club located in a racetrack facility where races with parimutuel wagering are conducted under the Kansas parimutuel racing act may establish rules whereby persons attending such races may file an application for temporary membership in such club for the day such person is attending such races, and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

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(e) A licensee may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

Sec. 9. K.S.A. 2008 Supp. 41-719 is hereby amended to read as follows: 41-719. (a) No (1) Except as otherwise provided herein and in K.S.A. 8-1599, and amendments thereto, no person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.

(2) Alcoholic liquor may be consumed at a special event held on public streets, alleys, roads, sidewalks or highways when a temporary permit has been issued pursuant to K.S.A 41-2645, and amendments thereto, for such special event. Such special event must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such special event is being held. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any such special event.

(3) No person shall remove any alcoholic liquor from inside the boundaries of a special event as designated by the governing body of any city, county or township. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(4) No person shall possess or consume alcoholic liquor inside the premises licensed as a special event that was not sold or provided by the licensee holding the temporary permit for such special event.

(b) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;

(2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place; or

(5) on the premises of a microbrewery or farm winery, if authorized by K.S.A. 41-308a or 41-308b, and amendments thereto.

(c) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state-owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments thereto, or established by a city.

(4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.

(5) On the state fairgrounds, if: (A) The alcoholic liquor is domestic beer or wine or wine imported under subsection (e) of K.S.A. 41-308a, and amendments thereto, and is consumed only for purposes of judging competitions; (B) the alcoholic liquor is wine or beer and is sold and consumed during the days of the Kansas state fair on premises leased by the state fair board to a person who holds a temporary permit issued pursuant to K.S.A. 41-

2645, and amendments thereto, authorizing the sale and serving of such wine or beer, or both; or (C) the alcoholic liquor is consumed on nonfair days in conjunction with bona fide scheduled events involving not less than 75 invited guests and the state fair board, in its discretion, authorizes the consumption of the alcoholic liquor, subject to any conditions or restrictions the board may require.

(6) In the state historical museum provided for by K.S.A. 76-2036, and amendments thereto, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(7) On the premises of any state-owned historic site under the jurisdiction and supervision of the state historical society, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(8) In a lake resort within the meaning of K.S.A. 32-867, and amendments thereto, on state-owned or leased property.

(9) In the Hiram Price Dillon house or on its surrounding premises, subject to limitations established in policies adopted by the legislative coordinating council, as provided by K.S.A. 75-3682, and amendments thereto.

(10) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

(11) On property exempted from this subsection (c) pursuant to subsection (d), (e), (f), (g) or (h).

(d) Any city may exempt, by ordinance, from the provisions of subsection (c) specified property the title of which is vested in such city.

(e) The board of county commissioners of any county may exempt, by resolution, from the provisions of subsection (c) specified property the title of which is vested in such county.

(f) The state board of regents may exempt from the provisions of subsection (c) the Sternberg museum on the campus of Fort Hays state university, or other specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(g) The board of regents of Washburn university may exempt from the provisions of subsection (c) the Mulvane art center and the Bradbury Thompson alumni center on the campus of Washburn university, and other specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(h) The board of trustees of a community college may exempt from the provisions of subsection (c) specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(i) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than 50 or more than 200 or by imprisonment for not more than six months, or both.

(j) For the purposes of this section, "special event" means a picnic, bazaar, festival or other similar community gathering, which has been approved by the local governing body of any city, county or township.

Sec. 10. K.S.A. 2008 Supp. 41-2645 is hereby amended to read as follows: 41-2645. (a) A temporary permit shall allow the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, which may be open to the public, subject to the terms of such permit.

(b) The director may issue a temporary permit to any one or more persons or organizations applying for such a permit, in accordance with rules and regulations of the secretary. The permit shall be issued in the names of the persons or organizations to which it is issued.

(c) Applications for temporary permits shall be required to be filed with the director not less than 14 days before the event for which the permit is sought unless the director waives such requirement for good cause. Each application shall state the purposes for which the proceeds of the event will be used. The application shall be upon a form prescribed and furnished by the director and shall be filed with the director in duplicate. Each application shall be accompanied by a permit fee of \$25 for each day for which the permit is issued, which fee shall be paid by a certified or cashier's check of a bank within this state, United States post office money order or cash in the full amount thereof. All permit fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(d) Temporary permits shall specify the premises for which they are issued and shall be issued only for premises where the city, county or township zoning code allows use for which the permit is issued. No temporary permit shall be issued for premises which are not located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, to adopt the proposition amending section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986; or (B) have approved a proposition to allow the sale of liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(e) (1) A temporary permit may be issued for the consumption of alcoholic liquor on a city, county or township street, alley, road, sidewalk or highway for a special event; provided, that such street, alley, road, sidewalk or highway is closed to motor vehicle traffic by the governing body of such city, county or township for such special event, a written request for such consumption and possession of such alcoholic liquor has been made to the local governing body and the special event is approved by the governing body of such city, county or township by ordinance or resolution. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(2) Drinking establishments that are immediately adjacent to, or located within the licensed premises of a special event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may request that the drinking establishment's licensed premises be extended into and made a part of the licensed premises of the special event for the duration of the temporary permit issued for such special event.

(3) Each licensee selling alcoholic liquor for consumption on the premises of a special event for which a temporary permit has been issued shall be liable for violations of all laws governing the sale and consumption of alcoholic liquor.

(4) For the purposes of this section, "special event" shall have the same meaning given that term in K.S.A. 41-719, and amendments thereto.

 $\langle \mathbf{c} \rangle$ (f) A temporary permit shall be issued for a period of time not to exceed three consecutive days, the dates and hours of which shall be specified in the permit, except that the director may issue one temporary permit, valid for the entire period of time of the Kansas state fair, which authorizes the sale of wine in its original, unopened container and the serving by the drink of only wine or beer, or both, on the state fairgrounds on premises specified in the temporary permit, by a person who has entered into an agreement with the state fair board for that purpose. Not more than four temporary permits may be issued to any one applicant in a calendar year.

(f) (g) All proceeds from an event for which a temporary permit is issued shall be used only for the purposes stated in the application for such permit.

 $(\mathbf{g})(h)$ A temporary permit shall not be transferable or assignable.

 $\frac{(h)}{(i)}$ The director may refuse to issue a temporary permit to any person or organization which has violated any provision of the Kansas liquor control act, the drinking establishment act or K.S.A. 79-41a01 et seq., and amendments thereto.

Sec. 11. K.S.A. 41-2651 is hereby amended to read as follows: 41-2651. (a) When application for licensure or renewal of licensure as a club or drinking establishment is received by the director, the director shall notify the governing body of the city or county where the premises to be licensed are located, if such governing body requests such notification.

(b) No such license or renewal shall be granted by the director until the expiration of at least 10 days from the time of filing the application for licensure or renewal with the

director, during which period the governing body of any city or county notified pursuant to subsection (a) may request the director to hold a hearing on the granting or refusal to grant such license or renewal. The

(c) At any time, the governing body of any city or county may request the director to hold a hearing on whether any license issued pursuant to this act should be revoked or suspended. The governing body shall provide the director reasonable cause to believe a hearing is necessary based upon factors included in rules and regulations by the secretary. The director may refuse the governing body's request absent such reasonable cause.

(d) Any hearing on the application held pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act as provided in K.S.A. 41-2609, and amendments thereto.

(c) (e) At such any hearing held pursuant to this section the governing body of such city or county shall have the right to appear before the director and present testimony and evidence and make recommendations regarding the granting or refusal to grant such license or renewal, or whether such license should be revoked or suspended. In determining whether to grant or to refuse to grant such license or renewal, or to revoke or suspend such license, the director shall take into consideration the testimony and evidence and recommendations of the governing body of such city or county. The director may refuse to grant such license or renewal, or may revoke or suspend such license based on the evidence gathered at such hearing, in the interest of protecting the public welfare, and in accordance with rules and regulations adopted by the secretary.

 $\frac{d}{d}(f)$ This section shall be part of and supplemental to the club and drinking establishment act.

New Sec. 12. If any provision of the Kansas liquor control act, or its application to any person or circumstance, is determined by a court to be invalid or unconstitutional, the remaining provisions shall be construed in accordance with the intent of the legislature to further limit rather than to expand commerce in alcoholic liquor and to enhance strict regulatory control over taxation, distribution and sale of alcoholic liquor through the three-tier regulatory system imposed by the Kansas liquor control act upon all alcoholic liquor and cereal malt beverages.

Sec. 13. K.S.A. 41-305, 41-2637, 41-2641, 41-2642 and 41-2651 and K.S.A. 2008 Supp. 41-308a, 41-317, 41-348, 41-349, 41-719 and 41-2645 are hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all in lines 12 through 15 and inserting the following: "AN ACT concerning alcoholic beverages; amending K.S.A. 41-305, 41-2637, 41-2641, 41-2642 and 41-2651 and K.S.A. 2008 Supp. 41-308a, 41-317, 41-719 and 41-2645 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 41-348 and 41-349.";

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

MELVIN NEUFELD MIKE S. KIEGERL JUDITH LOGANBILL Conferees on part of House

PETE BRUNGARDT ROGER REITZ OLETHA FAUST-GOUDEAU Conferees on part of Senate

Senator Brungardt moved the Senate adopt the Conference Committee Report on SB 212.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle. Absent or Not Voting: Steineger, Wysong. The Conference Committee report was adopted.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Owens moved the Senate concur in House amendments to SB 158.

SB 158, An act concerning driver's licenses; relating to restrictions for certain persons; amending K.S.A. 2008 Supp. 8-2110 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Steineger, Wysong.

The Senate concurred.

On motion of Senator Reitz the Senate nonconcurred in the House amendments to **H Sub for SB 257** and requested a conference committee be appointed.

The President appointed Senators Reitz, Wagle and Kultala as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Schodorf, the Senate acceded to the request of the House for a conference on $SB \ 84$.

The President appointed Senators Schodorf, Vratil and Hensley as second conferees on the part of the Senate.

On motion of Senator McGinn, the Senate acceded to the request of the House for a conference on **S Sub for HB 2085**.

The President appointed Senators McGinn, Teichman and Francisco as conferees on the part of the Senate.

On motion of Senator Brungardt, the Senate acceded to the request of the House for a conference on **S Sub for HB 2267**.

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

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Friday, April 3, 2009.

Journal of the Senate

FIFTY-SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Friday, April 3, 2009—10:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-nine senators present. Senator Wysong was excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Each session is planned for ninety days; Sometimes we don't make it, sometimes we do. If there's a lot of pressure involved, We strive to get it through.

But often it takes more time To produce bills fit to present. Then the public is quickly informed How much more money we spent.

Whether we hurry or whether we don't, The result is always the same Some people think we did well, Most people think it's a shame.

So I ask You, Lord, to help us To try hard to get some rest, To remember we can't please everyone, And just continue to do our best.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee Report to agree to disagree on **HB 2214** and has appointed Representatives Shultz, Peck and Swenson as second conferees on part of the House.

The House not adopts the Conference Committee Report to agree to disagree on **HB** 2052.

COMMITTEE OF THE WHOLE

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

On motion of Senator Apple the following report was adopted: Recommended: **HB 2331** be passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and **HB 2331** was advanced to Final Action and roll call.

HB 2331, An act concerning investment of state moneys; relating to the state treasurer; amending K.S.A. 2-3705 and K.S.A. 2008 Supp. 75-4272 and 75-4280 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong. The bill passed.

REPORT ON ENGROSSED BILLS

SB 35, SB 44, SB 154 reported correctly engrossed April 3, 2009. Also, SB 11, SB 19, SB 87, SB 225 correctly re-engrossed April 3, 2009.

REPORT ON ENROLLED BILLS

SB 9, SB 39, SB 60, SB 253 reported correctly enrolled, properly signed and presented to the Governor on April 3, 2009.

Also, **SR 1869**, **SR 1870**, **SR 1871**, **SR 1872**, **SR 1873** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 3, 2009.

On motion of Senator D. Schmidt, the Senate recessed until 1:30 p.m.

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

Announcing passage of SCR 1610.

The House concurs in Senate amendments to **HB 2085**, and requests return of the bill. The House adopts the conference committee report on **Senate Substitute for HB 2260**. The House adopts the conference committee report on **HB 2172**.

The House accedes to the request of the Senate for a conference on **SB 257** and has appointed Representatives Schwartz, M. Holmes and Garcia as conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 2130**, requests a conference and appoints Hayzlett, Vickrey and Long as conferences on the part of the House.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Reitz moved the Senate concur in house amendments to H Sub for SB 257.

H Sub for SB 257, An act concerning cities; relating to public improvements outside the city limits; amending K.S.A. 12-693 and repealing the existing section.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Francisco, Huelskamp, Owens.

Absent or Not Voting: Wysong.

The Senate concurred.

ORIGINAL MOTION

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **HB 2130**.

The President appointed Senators Umbarger, Marshall and Kultala as conferees on the part of the Senate.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2097**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2097, as follows:

On page 1, by striking all in lines 15 through 43;

By striking all on pages 2 through 5 and inserting the following:

"Section I. K.S.A. 2008 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A. 1993 Supp. 21-4628 prior to its repeal; K.S.A. 21-4635 through 21-4638, and amendments thereto; K.S.A. 8-1567, and amendments thereto; K.S.A. 21-4642, and amendments thereto; and K.S.A 21-4624, and amendments thereto, an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, and amendments thereto, an inmate sentenced to imprisonment for the crime of capital murder, or an inmate sentenced for the crime of murder in the first degree based upon a finding of premeditated murder, committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(2) Except as provided by subsection $(\mathbf{b})(1)$ or $(\mathbf{b})(4)$, K.S.A. 1993 Supp. 21-4628 prior to its repeal and K.S.A. 21-4635 through 21-4638, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(3) Except as provided by K.S.A. 1993 Supp. 21-4628 prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(4) An inmate sentenced to imprisonment for a violation of subsection (a) of K.S.A. 21-3402, and amendments thereto, committed on or after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after serving 10 years of confinement without deduction of any good time credits.

(5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

(c) (1) Except as provided in subsection (e), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

 (\hat{A}) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608 and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(B) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment. (d) (1) Persons sentenced for crimes, other than off-grid crimes, committed on or after July 1, 1993, or persons subject to subparagraph (G), will not be eligible for parole, but will be released to a mandatory period of postrelease supervision upon completion of the prison portion of their sentence as follows:

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 1 through 4 crimes and drug severity levels 1 and 2 crimes must serve 36 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes and drug severity level 3 crimes must serve 24 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 7 through 10 crimes and drug severity level 4 crimes must serve 12 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(D) (i) The sentencing judge shall impose the postrelease supervision period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless the judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated. In that event, departure may be imposed to extend the postrelease supervision to a period of up to 60 months.

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721, and amendments thereto.

 $(\ensuremath{\text{iii}})$ In determining whether substantial and compelling reasons exist, the court shall consider:

(a) Written briefs or oral arguments submitted by either the defendant or the state;

(b) any evidence received during the proceeding;

(c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to subsection (e) of K.S.A. 21-4714, and amendments thereto; and

(d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the parole board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subparagraph (d)(1)(D), the court shall refer to K.S.A. 21-4718, and amendments thereto.

(vi) Upon petition, the parole board may provide for early discharge from the post-release supervision period upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the parole board.

(vii) Persons convicted of crimes deemed sexually violent or sexually motivated, shall be registered according to the offender registration act, K.S.A. 22-4901 through 22-4910, and amendments thereto.

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of postrelease supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections. (F) In cases where sentences for crimes from more than one severity level have been imposed, the offender shall serve the longest period of postrelease supervision as provided by this section available for any crime upon which sentence was imposed irrespective of the severity level of the crime. Supervision periods will not aggregate.

(G) Except as provided in subsection (u), persons convicted of a sexually violent crime committed on or after July 1, 2006, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(2) As used in this section, "sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto;

(D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;

 $\rm (G)\,$ aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, and amendments thereto; or

 $(K)\,$ an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of a sexually violent crime as defined in this section.

"Sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(e) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the Kansas parole board may postpone the inmate's parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate's parole or conditional release had been violated for reasons other than conviction of a crime.

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. 21-4724, and amendments thereto, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the Kansas parole board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp. 21-4628 prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the Kansas parole board.

(g) Subject to the provisions of this section, the Kansas parole board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, for deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of

the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The Kansas parole board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least the month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the Kansas parole board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the parole board will review the inmates proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a, and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on post-release supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) Before ordering the parole of any inmate, the Kansas parole board shall have the inmate appear before either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the Kansas parole board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the secretary.

inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to 10 years but any such deferral shall require the board to state the basis for its findings.

 $(k)\,\,$ Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(1) The Kansas parole board shall adopt rules and regulations in accordance with K.S.A. 77-415 et seq., and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, postrelease supervision reviews, revocation hearings, orders of restitution, reimbursement of expenditures by the state board of indigents' defense services and other conditions to be imposed upon parolees or releasees. Whenever an order for parole or postrelease supervision is issued it shall recite the conditions thereof.

(m) Whenever the Kansas parole board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board:

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

(2) to the extent practicable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision make progress towards or successfully complete the equivalent of a secondary education if the inmate has not previously completed such educational equivalent and is capable of doing so;

(3) may order that the parolee or person on postrelease supervision perform community or public service work for local governmental agencies, private corporations organized notfor-profit or charitable or social service organizations performing services for the community;

(4) may order the parolee or person on postrelease supervision to pay the administrative fee imposed pursuant to K.S.A. 22-4529, and amendments thereto, unless the board finds compelling circumstances which would render payment unworkable; and

(5) unless it finds compelling circumstances which would render a plan of payment unworkable, shall order that the parolee or person on postrelease supervision reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the parole board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will

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impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less, minus any previous payments for such services.

(n) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the Kansas parole board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable.

(o) Whenever the Kansas parole board grants the parole of an inmate, the board, within 10 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(p) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(q) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(r) An inmate who is allocated regular good time credits as provided in K.S.A. 22-3725, and amendments thereto, may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions which result in a financial savings to the state.

(s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and (d)(1)(E) shall be applied retroactively as provided in subsection (t).

(t) For offenders sentenced prior to the effective date of this act who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section for offenders convicted of severity level 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes and severity level 4 crimes on the sentencing guidelines grid for drug crimes on or before September 1, 2000; for offenders convicted of severity level 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or before November 1, 2000; and for offenders convicted of severity level 5 and 6 crimes on the sentencing guidelines grid for drug crimes on or before Sentencing guidelines grid for drug crimes on or before Sentencing guidelines grid for drug crimes on or before January 1, 2001.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the Kansas parole board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

 $\left(v\right)$ Whenever the Kansas parole board or the court orders a person to be electronically monitored, the board or court shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board or court shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

(w) Documents, records and reports from the parole board, reviewed and produced on and after July 1, 2008 through June 30, 2009, concerning factors and rationale used to determine the granting or denial of parole, shall be available to members of the standing senate committee on judiciary, house committee on judiciary, house committee on corrections and juvenile justice and the joint committee on corrections and juvenile justice, when carrying out such committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. The parole board shall provide to such legislative members a summary statement of the factors and rationale used to determine such grant or denial. Such information shall include such summary statement and any correspondence received by the parole board relating to such grant or denial. Documents, records and reports received by the committee are confidential and shall not be further disclosed. Such documents, records and reports received shall not be subject to K.S.A. 45-221, and amendments thereto. All copies of such documents, records and reports shall be returned to the parole board prior to the open meeting resuming. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate.

Sec. 2. K.S.A. 2008 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

 $(b)\,$ No subjects shall be discussed at any closed or executive meeting, except the following:

(1) Personnel matters of nonelected personnel;

(2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;

(3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;

(4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;

(5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;

(6) preliminary discussions relating to the acquisition of real property;

(7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto;

(8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (d)(1) of K.S.A. 38-1507 and amendments thereto or subsection (e) of K.S.A. 38-1508 and amendments thereto;

(9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto;

(10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 44-596 and amendments thereto;

(11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 39-7,119 and amendments thereto;

(12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;

(13) matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments;

(14) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto; and

(15) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2008 Supp. 75-7427, and amendments thereto; *and*

(16) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (w) of K.S.A. 22-3717, and amendments thereto.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

(d) (1) Any confidential records or information relating to security measures provided or received under the provisions of subsection (b)(13), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

(2) Any confidential documents, records or reports relating to the parole board provided or received under the provisions of subsection (b)(16), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

Sec. 3. K.S.A. 2008 Supp. 22-3717 and 75-4319 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.";

On page 1, in the title, by striking all in lines 9 through 12, and inserting the following:

"AN ACT concerning the parole board; relating to factors and rationale used to determine parole; amending K.S.A. 2008 Supp. 22-3717 and 75-4319 and repealing the existing sections.";

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

THOMAS C. OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate

PAT COLLOTON JOE PATTON MELODY MCCRAY-MILLER Conferees on part of House

Senator Owens moved the Senate adopt the Conference Committee Report on S Sub for HB 2097.

On roll call, the vote was: Yeas 4, Nays 32, Present and Passing 3, Absent or Not Voting 1.

Yeas: Barnett, Brownlee, Masterson, Petersen.

Nays: Abrams, Apple, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Morris, Ostmeyer, Owens, Pilcher-Cook, Reitz, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

Present and Passing: Pyle, Schmidt D, Wagle.

Absent or Not Voting: Wysong.

The Conference Committee report was not adopted.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the President of the Senate and the Speaker of the House to the senate for confirmation, were considered.

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

On the appointment to the:

Kansas Health Policy Authority, Member:

Joe Lee Tilghman, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, PilcherCook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.

The appointment was confirmed.

On the appointment to the:

Kansas Health Policy Authority, Member:

Garen Lorimer Cox, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.

The appointment was confirmed.

COMMITTEE OF THE WHOLE

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

On motion of Senator Apple the following report was adopted:

The committee report on **HB 2032** recommending a **S Sub for HB 2032** be adopted, and the substitute bill be passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and **S Sub for HB 2032** was advanced to Final Action and roll call.

Ś Sub for HB 2032, An act enacting the Kansas surface owner notice act; relating to oil and gas operations; state corporation commission; amending K.S.A. 55-155, 55-173 and K.S.A. 2008 Supp. 55-151 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong. The substitute bill passed.

REPORT ON ENGROSSED BILLS

Sub SB 28; H Sub for SB 98; H Sub for SB 145; SB 161, SB 257 reported correctly engrossed April 3, 2009.

Also, SB 68, SB 97, SB 134, SB 158, SB 212 correctly re-engrossed April 3, 2009.

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on HB 2121.

The House adopts the conference committee report on HB 2152.

The House adopts the conference committee report on SB 66.

The House announces the appointment of Representatives Colloton, Patton and McCray-Miller to replace Representatives Landwehr, Crum and Flaharty as conferrees on **SB 33**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Barnett moved the Senate concur in house amendments to SB 102.

SB 102, An act concerning emergency medical services; relating to use of automated external defibrillator; amending K.S.A. 2008 Supp. 65-6149a and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Brungardt, Wysong.

The Senate concurred.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 66**, 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 amendments, as follows:

On page 1, following line 16, by inserting the following:

"New Section 1. (a) In addition to any other fees specifically prescribed by law, on and after July 1, 2009, through June 30, 2010, the supreme court may impose a charge, not to exceed \$10 per fee, to fund the costs of non-judicial personnel, on the following:

(1)~ A person who requests an order or writ of execution, pursuant to K.S.A. 60-2401, and amendments thereto.

(2) Persons who request a hearing in aid of execution or an alias order for hearing pursuant to K.S.A. 60-2419, and amendments thereto.

(3) A person requesting an order for garnishment pursuant to article 7 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, or article 35 of chapter 61 of the Kansas Statutes Annotated, and amendments thereto.

(4) Persons who request a writ or order of sale pursuant to K.S.A. 61-3602, and amendments thereto.

(5)~ A person who requests a hearing in aid of execution, pursuant to K.S.A. 61-3604, and amendments thereto.

(b) The clerk of the district court shall remit all revenues received from the fees imposed pursuant to subsection (a) to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the judicial branch surcharge fund.

(c) The fees established in this section shall be the only fee collected or moneys in the nature of a fee collected for such court procedures. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 2. K.S.A. 2008 Supp. 8-2107 is hereby amended to read as follows: 8-2107. (a) (1) Notwithstanding any other provisions of the uniform act regulating traffic on highways, when a person is stopped by a police officer for any of the offenses described in subsection (d) and such person is not immediately taken before a judge of the district court, the police officer may require the person stopped, subject to the provisions of subsection (c), to deposit with the officer a valid Kansas driver's license in exchange for a receipt therefor issued by such police officer, the form of which shall be approved by the division of vehicles. Such receipt shall be recognized as a valid temporary Kansas driver's license authorizing the operation of a motor vehicle by the person stopped until the date of the hearing stated on the receipt. The driver's license and a written copy of the notice to appear shall be delivered by the police officer to the court having jurisdiction of the offense charged as soon as reasonably possible. If the hearing on such charge is continued for any reason, the judge may note on the receipt date to which such hearing has been continued and such receipt shall be recognized as a valid temporary Kansas driver's license until such date, but in no

event shall such receipt be recognized as a valid Kansas driver's license for a period longer than 30 days from the date set for the original hearing. Any person who has deposited a driver's license with a police officer under this subsection (a) shall have such license returned upon final determination of the charge against such person.

(2) In the event the person stopped deposits a valid Kansas driver's license with the police officer and fails to appear in the district court on the date set for appearance, or any continuance thereof, and in any event within 30 days from the date set for the original hearing, the court shall forward such person's driver's license to the division of vehicles with an appropriate explanation attached thereto. Upon receipt of such person's driver's license, the division shall suspend such person's privilege to operate a motor vehicle in this state until such person appears before the court having jurisdiction of the offense charged, the court makes a final disposition thereof and notice of such disposition is given by the court to the division. No new or replacement license shall be issued to any such person until such notice of disposition has been received by the division. The provisions of K.S.A. 8-256, and amendments thereto, limiting the suspension of a license to one year, shall not apply to suspensions for failure to appear as provided in this subsection (a).

(b) No person shall apply for a replacement or new driver's license prior to the return of such person's original license which has been deposited in lieu of bond under this section. Violation of this subsection (b) is a class C misdemeanor. The division may suspend such person's driver's license for a period of not to exceed one year from the date the division receives notice of the disposition of the person's charge as provided in subsection (a).

(c) (1) In lieu of depositing a valid Kansas driver's license with the stopping police officer as provided in subsection (a), the person stopped may elect to give bond in the amount specified in subsection (d) for the offense for which the person was stopped. When such person does not have a valid Kansas driver's license, such person shall give such bond. Such bond shall be subject to forfeiture if the person stopped does not appear at the court and at the time specified in the written notice provided for in K.S.A. 8-2106, and amendments thereto.

(2) Such bond may be a cash bond, a bank card draft from any valid and unexpired credit card approved by the division of vehicles or superintendent of the Kansas highway patrol or a guaranteed arrest bond certificate issued by either a surety company authorized to transact such business in this state or an automobile club authorized to transact business in this state or an automobile club authorized to transact business in this state or an automobile club authorized to transact business in this state by the commissioner of insurance. If any of the approved bank card issuers redeem the bank card draft at a discounted rate, such discount shall be charged against the amount designated as the fine for the offense. If such bond is not forfeited, the amount of the bond less the discount rate shall be reimbursed to the person providing the bond by the use of a bank card draft. Any such guaranteed arrest bond certificate shall be signed by the person to whom it is issued and shall contain a printed statement that such surety company or automobile club guarantees the appearance of such person and will, in the event of failure of such person not to exceed an amount to be stated on such certificate.

(3) Such cash bond shall be taken in the following manner: The police officer shall furnish the person stopped a stamped envelope addressed to the judge or clerk of the court named in the written notice to appear and the person shall place in such envelope the amount of the bond, and in the presence of the police officer shall deposit the same in the United States mail. After such cash payment, the person stopped need not sign the written notice to appear, but the police officer shall note the amount of the bond mailed on the notice to appear form and shall give a copy of such form to the person. If the person stopped furnishes the police officer with a guaranteed arrest bond certificate or bank card draft, the police officer shall give such person a receipt therefor and shall note the amount of the bond on the notice to appear form and give a copy of such form to the person stopped. Such person need not sign the written notice to appear, and the guaranteed arrest bond certificate or bank card draft to the court having jurisdiction of the offense charged as soon as reasonably possible.

 $(d) \quad$ The offenses for which appearance bonds may be required as provided in subsection (c) and the amounts thereof shall be as follows:

On and after July 1, 1996:

Deal-loss driving	\$82
Reckless driving	@02
Driving when privilege is canceled, suspended or revoked	82
Failure to comply with lawful order of officer	57
Registration violation (registered for 12,000 pounds or less)	52
Registration violation (registered for more than 12,000 pounds)	92
No driver's license for the class of vehicle operated or violation of	
restrictions	52
Spilling load on highway	52
Transporting open container of alcoholic liquor or cereal malt beverage	
accessible while vehicle in motion	223

(e) In the event of forfeiture of any bond under this section, \$75 of the amount forfeited shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(f) None of the provisions of this section shall be construed to conflict with the provisions of the nonresident violator compact.

(g) When a person is stopped by a police officer for any traffic infraction and the person is a resident of a state which is not a member of the nonresident violator compact, K.S.A. 8-1219 et seq., and amendments thereto, or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount specified in the uniform fine schedule in subsection (c) of K.S.A. 8-2118, and amendments thereto, plus \$75 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(h) When a person is stopped by a police officer for failure to provide proof of financial security pursuant to K.S.A. 40-3104, and amendments thereto, and the person is a resident of another state or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount of \$75, plus \$75 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(i) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.

Sec. 3. K.S.A. 2008 Supp. 8-2110 is hereby amended to read as follows: 8-2110. (a) Failure to comply with a traffic citation means failure either to (1) appear before any district or municipal court in response to a traffic citation and pay in full any fine and court costs imposed or (2) otherwise comply with a traffic citation as provided in K.S.A. 8-2118, and amendments thereto. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

(b) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the district or municipal court in which the person should have complied with the citation shall mail notice to the person that if the person does not appear in district or municipal court or pay all fines, court costs and any penalties within 30 days from the date of mailing notice, the division of vehicles will be notified to suspend the person's driving privileges. The district or municipal court may charge an additional fee of \$5 for mailing such notice. Upon the person's failure to comply within such 30 days of mailing notice, the district or municipal court shall electronically notify the division of vehicles. Upon receipt of a report of a failure to comply with a traffic citation under this subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the informing court. When the court determines the person has complied with the terms of the traffic citation, the court shall immediately electronically

notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension or suspension action.

(c) Except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$59 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine, district or municipal court costs and other penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit 42.37% of such moneys to the division of vehicles operating fund, 31.78% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, 10.59% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2008 Supp. 20-1a15, and amendments thereto.

(d) The district court or municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for such active duty, and being absent from Kansas because of such military service. In any case of a failure to comply with a traffic citation which occurred on or after August 1, 1990, and prior to the effective date of this act, in which a person was assessed and paid a reinstatement fee and the person failed to comply with a traffic citation because the person was absent from Kansas because of any such military service, the reinstatement fee shall be reimbursed to such person upon application therefor. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

(e) The reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per reinstatement fee, to fund the costs of non-judicial personnel.

Sec. 4. K.S.A. 20-362 is hereby amended to read as follows: 20-362. The clerk of the district court shall remit all revenues received from docket fees as follows:

(a) At least monthly to the county treasurer, for deposit in the county treasury and credit to the county general fund:

(1) A sum equal to \$10 for each docket fee paid pursuant to K.S.A. 60-2001 and 60-3005, and amendments thereto, during the preceding calendar month;

(2) a sum equal to \$10 for each \$46 or \$76 docket fee paid pursuant to K.S.A. 61-4001, or K.S.A. 61-2704 or 61-2709, and amendments thereto; and

(3) a sum equal to \$5 for each \$26 docket fee paid pursuant to K.S.A. 61-4001 or K.S.A. 61-2704, and amendments thereto, during the preceding calendar month.

(b) At least monthly to the board of trustees of the county law library fund, for deposit in the fund, a sum equal to the library fees paid during the preceding calendar month for cases filed in the county.

(c) At least monthly to the county treasurer, for deposit in the county treasury and credit to the prosecuting attorneys' training fund, a sum equal to \$1 \$2 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month

for cases filed in the county and *a sum equal to \$1* for each fee paid pursuant to subsection (c) of K.S.A. 28-170, and amendments thereto, during the preceding calendar month for cases filed in the county.

(d) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the indigents' defense services fund, a sum equal to \$.50 for each docket fee paid pursuant to K.S.A. 28-172a and subsection (d) of K.S.A. 28-170, and amendments thereto, during the preceding calendar month.

(e) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the law enforcement training center fund a sum equal to \$15 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month.

(f) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the judicial branch surcharge fund a sum equal to the amount collected for credit to that fund, as provided by supreme court rule.

(f) (g) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and distribution according to K.S.A. 20-367, and amendments thereto, a sum equal to the balance which remains from all docket fees paid during the preceding calendar month after deduction of the amounts specified in subsections (a), (b), (c), (d) and (e), (e) and (f).

Sec. 5. K.S.A. 20-2207 is hereby amended to read as follows: 20-2207. (a) The judicial council may fix, charge and collect fees for sale and distribution of legal publications in order to recover direct and indirect costs incurred for preparation, publication and distribution of legal publications. The judicial council may request and accept gifts, grants and donations from any person, firm, association or corporation or from the federal government or any agency thereof for preparation, publications.

(b) The publications fee fund of the judicial council which was established in the state treasury pursuant to appropriation acts is hereby continued in existence and shall be administered by the judicial council. Revenue from the following sources shall be deposited in the state treasury and credited to such fund:

(1) $\,$ All moneys received by or for the judicial council from fees collected under this section; and

(2) all moneys received as gifts, grants or donations for preparation, publication or distribution of legal publications.

(c) Moneys deposited in the publications fee fund of the judicial council may be expended for operating expenditures related to preparation, publication and distribution of legal publications of the judicial council and for operating expenses that are not related to publication activities, *including expenditures to fund the Kansas criminal code recodification commission on July 1, 2009, through June 30, 2010.*

(d) All expenditures from the publications fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the judicial council or the chairperson's designee.

Sec. 6. K.S.A. 20-2208 is hereby amended to read as follows: 20-2208. There is hereby established in the state treasury the judicial council fund. All expenditures from the judicial council fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved by the chairperson of the Kansas judicial council or by a person or persons designated by the chairperson of the Kansas judicial council. *Expenditures from the judicial council fund may be made to fund the Kansas criminal code recodification commission on July 1, 2009, through June 30, 2010.*

Sec. 7. K.S.A. 2008 Supp. 20-3002 is hereby amended to read as follows: 20-3002. (a) On and after January 1, 2008, through December 31, 2009 2010, the court of appeals shall consist of 13 judges whose positions shall be numbered one to 13. On and after January 1, 2010 2011, the court of appeals shall consist of 14 judges whose positions shall be numbered one to 14. Judges of the court of appeals shall possess the qualifications prescribed by law for justices of the supreme court.

(b) Judges of the court of appeals shall be selected in the manner provided by K.S.A. 20-3003 through 20-3010, and amendments thereto. Each judge of the court of appeals shall receive an annual salary in the amount prescribed by law. No judge of the court of appeals may receive additional compensation for official services performed by the judge. Each such judge shall be reimbursed for expenses incurred in the performance of such judge's official duties in the same manner and to the same extent justices of the supreme court are reimbursed for such expenses.

(c) The supreme court may assign a judge of the court of appeals to serve temporarily on the supreme court.

(d) Any additional court of appeals judge position created by this section shall be considered a position created by the supreme court and not a civil appointment to a state office pursuant to K.S.A. 46-234, and amendments thereto.

Sec. 8. K.S.A. 2008 Supp. 20-3202 is hereby amended to read as follows: 20-3202. (a) The commission shall consist of thirteen members appointed by the judicial council. The council shall appoint commission members of outstanding competence and reputation. Six members of the commission shall be non-lawyers and six members of the commission shall be lawyers, justices or judges. The judicial council shall appoint the chair of the commission who shall be a lawyer, justice or judge. At least one non-lawyer commission member and at least one lawyer, justice or judge commission member shall reside in each congressional district. The rules of the commission shall provide that the terms of the commission members are staggered.

(b) For the purposes of K.S.A. 20-3201 through 20-3207, and amendments thereto, the commission shall not be subject to the Kansas open meetings act as provided in K.S.A. 75-4317 et seq., and amendments thereto.

(c) As used in K.S.A. 20-3201 through 20-3207, and amendments thereto:

(1) "Lawyer" means an attorney registered as active pursuant to supreme court rule.

(2) "Judge" means: a current or retired Kansas judge of the district court; *and* a current or retired judge of the Kansas court of appeals, and a retirant serving as a judge under written agreement with the Kansas supreme court pursuant to K.S.A. 20-2622, and amendments thereto.

(3) "Justice" means a current or retired justice of the Kansas supreme court.

Sec. 9. K.S.A. 2008 Supp. 20-3205 is hereby amended to read as follows: 20-3205. (a) The surveys of court users, survey results and judicial performance evaluation results are confidential and shall not be disclosed except as provided in subsection (d) or in accordance with the rules of the commission or the Kansas supreme court.

(b) Any statute or rule that restricts public access to certain types of court records or certain types of information contained in court records shall not prohibit the commission or agents of the commission from having access to the names and addresses of appropriate persons named in such records and other information necessary for the discharge of the commission's duties pursuant to article 32 of chapter 20 of the Kansas Statutes Annotated, and amendments thereto. No confidential information found in such court records shall be revealed to any other person by the commission or agents of the commission.

(c) The evaluation of judges subject to political elections shall be used solely for selfimprovement. A judge subject to political elections shall not reveal data from any portion of the survey or the results of the survey.

(d) Judicial performance evaluation results of a retirant serving as a judge under written agreement with the Kansas supreme court pursuant to K.S.A. 20-2622, and amendments thereto, shall be public and shall be used by the Kansas supreme court for the determination of a continuing agreement pursuant to K.S.A. 20-2622, and amendments thereto.

Sec. 10. K.S.A. 20-3207 is hereby amended to read as follows: 20-3207. On and after July 1, 2006, there is hereby established in the state treasury the judicial performance fund. All moneys credited to the fund shall be used for the judicial performance evaluation process, *except on July 1, 2009, through June 30, 2010, moneys credited to the fund may be used to fund the Kansas criminal code recodification commission*. All expenditures from the judicial performance fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved

by the chairperson of the Kansas judicial council or by the person or persons designated by the chairperson of the Kansas judicial council.

Sec. 11. K.S.A. 2008 Supp. 21-4619 is hereby amended to read as follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b) and (c), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Except as provided in subsection (c), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed, the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid, or:

(1) Vehicular homicide, as defined by K.S.A. 21-3405, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(3) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state which is in substantial conformity with that statute;

(4) violating the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which is in substantial conformity with that statute;

(5) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(6) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto, or required by a law of another state which is in substantial conformity with those statutes;

(7) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(8) a violation of K.S.A. 21-3405b, prior to its repeal.

There shall be no expungement of convictions for the following offenses or of con- (\mathbf{c}) victions for an attempt to commit any of the following offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto; (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516, and amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603, and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608, and amendments thereto; (11) aggravated endangering a child as defined in K.S.A. 21-3608a, and amendments thereto; (12) abuse of a child as defined in K.S.A. 21-3609, and amendments thereto; (12) (13) capital murder as defined in K.S.A. 21-3439, and amendments thereto; (13) (14) murder in the first degree as defined in K.S.A. 21-3401, and

amendments thereto; (14) (15) murder in the second degree as defined in K.S.A. 21-3402, and amendments thereto; (15) (16) voluntary manslaughter as defined in K.S.A. 21-3403, and amendments thereto; (16) (17) involuntary manslaughter as defined in K.S.A. 21-3404, and amendments thereto; (17) (18) involuntary manslaughter while driving under the influence of alcohol or drugs as defined in K.S.A. 21-3442, and amendments thereto; (18) (19) sexual battery as defined in K.S.A. 21-3517, and amendments thereto; (19) (20) aggravated sexual battery as defined in K.S.A. 21-3517, and amendments thereto; (20) (21) a violation of K.S.A. 8-1567, and amendments thereto, including any diversion for such violation; (21) (22) a violation of K.S.A. 8-2,144, and amendments thereto; including any diversion for such violation; or (22) (23) any conviction for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

(d) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. The petition shall state: (1) The defendant's full name;

(2) the full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

- (3) the defendant's sex, race and date of birth;
- (4) the crime for which the defendant was arrested, convicted or diverted;
- (5) the date of the defendant's arrest, conviction or diversion; and

(6) the identity of the convicting court, arresting law enforcement authority or diverting authority. *Except as provided further*, there shall be no docket fee for filing a petition pursuant to this section. On and after July 1, 2009 through June 30, 2010, the supreme court may impose a charge, not to exceed \$10 per case, to fund the costs of non-judicial personnel. The charge established in this section shall be the only fee collected or moneys in the nature of a fee collected for the case. Such charge shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

(e) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

- (2) the circumstances and behavior of the petitioner warrant the expungement; and
- (3) the expungement is consistent with the public welfare.

(f) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2008 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing and gaming commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;

(F) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(G) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(H) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(I) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 17-12a102, and amendments thereto;

 $(J)\;$ in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

(K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 2008 Supp. 75-7c01 et seq., and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(g) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion shall be informed of the ability to expunge the diversion.

(h) Subject to the disclosures required pursuant to subsection (f), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such crime, but the expungement of a felony conviction does not relieve an individual of complying with any state or federal law relating to the use or possession of firearms by persons convicted of a felony.

(i) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged; (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the Kansas sentencing commission;

(12) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(13) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(14) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

(15) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto; or

(16) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act.

Sec. 12. K.S.A. 22-2410 is hereby amended to read as follows: 22-2410. (a) Any person who has been arrested in this state may petition the district court for the expungement of such arrest record.

(b) When a petition for expungement is filed, the court shall set a date for hearing on such petition and shall cause notice of such hearing to be given to the prosecuting attorney

and the arresting law enforcement agency. When a petition for expungement is filed, the official court file shall be separated from the other records of the court, and shall be disclosed only to a judge of the court and members of the staff of the court designated by a judge of the district court, the prosecuting attorney, the arresting law enforcement agency, or any other person when authorized by a court order, subject to any conditions imposed by the order. Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel. The petition shall state:

(1) The petitioner's full name;

(2) the full name of the petitioner at the time of arrest, if different than the petitioner's current name;

(3) the petitioner's sex, race and date of birth;

- (4) the crime for which the petitioner was arrested;
- (5) the date of the petitioner's arrest; and
- (6) the identity of the arresting law enforcement agency.

No surcharge or fee shall be imposed to any person filing a petition pursuant to this section, who was arrested as a result of being a victim of identity theft under K.S.A. 21-4018, and amendments thereto. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(c) At the hearing on a petition for expungement, the court shall order the arrest record and subsequent court proceedings, if any, expunged upon finding: (1) The arrest occurred because of mistaken identity;

(2) a court has found that there was no probable cause for the arrest;

(3) the petitioner was found not guilty in court proceedings; or

(4) the expungement would be in the best interests of justice and (A) charges have been dismissed; or (B) no charges have been or are likely to be filed.

(d) When the court has ordered expungement of an arrest record and subsequent court proceedings, if any, the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (c). The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest. If an order of expungement is entered, the petitioner shall be treated as not having been arrested.

(e) If the ground for expungement is as provided in subsection (c)(4), the court shall determine whether, in the interests of public welfare, the records should be available for any of the following purposes: (1) In any application for employment as a detective with a private detective agency, as defined in K.S.A. 75-7b01 and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01 and amendments thereto, of the department of social and rehabilitation services;

(2) $\,$ in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(3) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(4) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(5) in any application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142 and amendments thereto;

(6) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(7) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or

(8) in any other circumstances which the court deems appropriate.

(f) Subject to any disclosures required under subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records have been expunged as provided in this section may state that such person has never been arrested.

(g) Whenever a petitioner's arrest records have been expunged as provided in this section, the custodian of the records of arrest, incarceration due to arrest or court proceedings related to the arrest, shall not disclose the arrest or any information related to the arrest, except as directed by the order of expungement or when requested by the person whose arrest record was expunged.

(h) The docket fee collected at the time the petition for expungement is filed shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

Sec. 13. K.S.A. 2008 Supp. 23-108a is hereby amended to read as follows: 23-108a. (a) The judge or clerk of the district court shall collect from the applicant for a marriage license a fee of \$59.

(b) The clerk of the court shall remit all fees prescribed by this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Of each remittance, the state treasurer shall credit 38.98% to the protection from abuse fund, 15.19% to the family and children trust account of the family and children investment fund created by K.S.A. 38-1808, and amendments thereto, 16.95% to the crime victims assistance fund created by K.S.A. 74-7334, and amendments thereto, 15.25% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2008 Supp. 20-1a15, and amendments thereto, and the remainder to the state general fund.

(c) The marriage license fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for a marriage license. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the marriage license fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for a marriage license. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per marriage license fee, to fund the costs of non-judicial personnel.

Sec. 14. K.S.A. 2008 Supp. 28-170 is hereby amended to read as follows: 28-170. (a) The docket fee prescribed by K.S.A. 60-2001 and amendments thereto and the fees for service of process, shall be the only costs assessed for services of the clerk of the district court and the sheriff in any case filed under chapter 60 or chapter 61 of the Kansas Statutes Annotated, and amendments thereto, except that no fee shall be charged for an action filed under K.S.A. 60-3101 et seq., and under K.S.A. 60-31a01 et seq., and amendments thereto. For services in other matters in which no other fee is prescribed by statute, the following fees shall be charged and collected by the clerk. Only one fee shall be charged for each bond, lien or judgment:

1.	For filing, entering and releasing a bond, mechanic's lien, notice of intent to	
	perform, personal property tax judgment or any judgment on which execution	
	process cannot be issued	\$14
2.	For filing, entering and releasing a judgment of a court of this state on which	
	execution or other process can be issued	\$24

For a certificate, or for copying or certifying any paper or writ, such fee as shall be prescribed by the district court.

(b) The fees for entries, certificates and other papers required in naturalization cases

shall be those prescribed by the federal government and, when collected, shall be disbursed as prescribed by the federal government. The clerk of the court shall remit to the state treasurer at least monthly all moneys received from fees prescribed by subsection (a) or (b) or received for any services performed which may be required by law. The state treasurer shall deposit the remittance in the state treasury and credit the entire amount to the state general fund.

(c) In actions pursuant to the revised Kansas code for care of children (K.S.A. 2008 Supp. 38-2201 et seq. and amendments thereto), the revised Kansas juvenile justice code (K.S.A. 2008 Supp. 38-2301 et seq. and amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001 et seq. and amendments thereto), the act for treatment of drug abuse (K.S.A. 65-5201 et seq. and amendments thereto), the care and treatment of drug abuse (K.S.A. 59-2945 et seq. and amendments thereto), the clerk shall charge an additional fee of \$1 which shall be deducted from the docket fee and credited to the prosecuting attorneys' training fund as provided in K.S.A. 28-170a and amendments thereto.

(d) In actions pursuant to the revised Kansas code for care of children (K.S.A. 2008 Supp. 38-2201 et seq. and amendments thereto), the revised Kansas juvenile justice code (K.S.A. 2008 Supp. 38-2301 et seq. and amendments thereto), the act for treatment of drug alcoholism (K.S.A. 65-4001 et seq. and amendments thereto), the act for treatment of drug abuse (K.S.A. 65-5201 et seq. and amendments thereto), the care and treatment of drug an additional fee of \$.50 which shall be deducted from the docket fee and credited to the indigents' defense services fund as provided in K.S.A. 28-172b and amendments thereto.

(e) The bond, lien or judgment fee established in subsection (a) shall be the only fee collected or moneys in the nature of a fee collected for such bond, lien or judgment. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the bond, lien or judgment fee established in subsection (a) shall be the only fee collected or moneys in the nature of a fee collected for such bond, lien or judgment fee established in subsection (a) shall be the only fee collected or moneys in the nature of a fee collected for such bond, lien or judgment. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per bond, lien or judgment fee, to fund the costs of non-judicial personnel.

Sec. 15. K.S.A. 2008 Supp. 28-172a is hereby amended to read as follows: 28-172a. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows:

(1) On and after July 1, 2008 through June 30, 2010:	
Murder or manslaughter	. \$181.50 \$182.50
Other felony	. 172.00 173.00
Misdemeanor	. 137.00 138.00
Forfeited recognizance	. 73.50 74.50
Appeals from other courts	
(2) On and after July 1, 2010:	
Murder or manslaughter	. \$179.50 \$180.50
Other felony	. 170.00 171.00
Misdemeanor	. 135.00 136.00
Forfeited recognizance	. 71.50 72.50
Appeals from other courts	. 71.50 72.50

(b) (1) Except as provided in paragraph (2), in actions involving the violation of any of the laws of this state regulating traffic on highways (including those listed in subsection (c) of K.S.A. 8-2118, and amendments thereto), a cigarette or tobacco infraction, any act declared a crime pursuant to the statutes contained in chapter 32 of Kansas Statutes Annotated and amendments thereto or any act declared a crime pursuant to the statutes contained in chapter 32 of Kansas Statutes Annotated and include the statutes of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, on and after July 1, 2008 through June 30, 2010, a docket fee of \$75 \$76 shall be charged, and on and after July 1, 2010, a docket fee of \$77 \$74 shall be charged. When an action is disposed

of under subsections (a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. 79-3393, and amendments thereto, whether by mail or in person, on and after July 1, 2008 through June 30, 2010, the docket fee to be paid as court costs shall be \$75 \$76, and on and after July 1, 2010, the docket fee to be paid as court costs shall be \$73 \$74.

(2) In actions involving the violation of a moving traffic violation under K.S.A. 8-2118, and amendments thereto, as defined by rules and regulations adopted under K.S.A. 8-249, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, on and after July 1, 2008 through June 30, 2010, a docket fee of \$75 \$76 shall be charged, and on and after July 1, 2010, a docket fee of \$73 \$74 shall be charged. When an action is disposed of under subsection (a) and (b) of K.S.A. 8-2118, and amendments thereto, whether by mail or in person, on and after July 1, 2008 through June 30, 2010, the docket fee to be paid as court costs shall be \$75 \$76, and on and after July 1, 2010, the docket fee to be paid as court costs shall be \$75 \$76.

(c) If a conviction is on more than one count, the docket fee shall be the highest one applicable to any one of the counts. The prosecuting witness or defendant, if assessed the costs, shall pay only one fee. Multiple defendants shall each pay one fee.

(d) Statutory charges for law library funds, the law enforcement training center fund, the prosecuting attorneys' training fund, the juvenile detention facilities fund, the judicial branch education fund, the emergency medical services operating fund and the judiciary technology fund shall be paid from the docket fee; the family violence and child abuse and neglect assistance and prevention fund fee shall be paid from criminal proceedings docket fees. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for Kansas bureau of investigation forensic or laboratory analyses, fees for detention facility processing pursuant to K.S.A. 12-16,119, and amendments thereto, fees for the sexual assault evidence collection kit, fees for conducting an examination of a sexual assault victim, fees for service of process outside the state, witness fees, fees for transcripts and depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

(f) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.

Sec. 16. K.S.A. 2008 Supp. 28-177 is hereby amended to read as follows: 28-177. The fees established by legislative enactment shall be the only fee collected or moneys in the nature of a fee collected for court procedures. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Court procedures shall include docket fees, filing fees or other fees related to access to court procedures. (a) Except as provided further, the fees established by legislative enactment shall be the only fee collected or moneys in the nature of a fee collected for court procedures. Such fee shall only be established by an act of the legislature and no other authority is established by legislature and no other authority is established by an act of the legislature and no other authority is established by an other authority is established by law or otherwise to collect a fee. Court procedures shall include docket fees, filling fees or stablished by legislative enactment shall be the only fee collected or moneys in the nature of a fee collected for court procedures. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Court procedures shall include docket fees,

filing fees or other fees related to access to court procedures. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per fee, to fund the costs of non-judicial personnel.

(b) Any additional charge imposed by the court pursuant to section 1, K.S.A. 8-2107, 8-2110, 21-4619, 22-2410, 23-108a, 28-170, 28-172a, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and K.S.A. 2008 Supp. 38-2215 and 38-2314, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the judicial branch surcharge fund, which is hereby created in the state treasury.

(c) All moneys credited to the judicial branch surcharge fund shall be used for compensation of non-judicial personnel and shall not be expended for compensation of judges or justices of the judicial branch.

(d) All expenditures from the judicial branch surcharge fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to payrolls approved by the chief justice of the Kansas supreme court or by a person or persons designated by the chief justice.

Sec. 17. K.S.A. 2008 Supp. 38-2215 is hereby amended to read as follows: 38-2215. (a) Docket fee. The docket fee for proceedings under this code, if one is assessed as provided in this section, shall be \$34. Only one docket fee shall be assessed in each case. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.

(b) *Expenses.* The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) Assessment of docket fee and expenses. (1) Docket fee. The docket fee may be assessed or waived by the court conducting the initial dispositional hearing and the docket fee may be assessed against the complaining witness or person initiating the proceedings or a party or interested party other than the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state, or a person acting in the capacity of an employee of the state or of a political subdivision of the state. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) *Expenses.* Expenses may be assessed against the complaining witness, a person initiating the proceedings, a party or an interested party, other than the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state. When expenses are recovered from a person against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery. If it appears to the court in any proceedings under this code that expenses were unreasonably incurred at the request of any party the court may assess that portion of the expenses against the party.

 (\tilde{d}) Cases in which venue is transferred. If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending court's share of the total expenses owed to both counties. The expenses of the sending county shall not be an obligation of the receiving courty except to the extent that the sending county's proportion of the expenses is collected by the receiving court. All amounts collected shall first be applied toward payment of the docket fee.

Sec. 18. K.S.A. 2008 Supp. 38-2314 is hereby amended to read as follows: 38-2314. (a) *Docket fee.* The docket fee for proceedings under this code, if one is assessed as provided by this section, shall be \$34. Only one docket fee shall be assessed in each case. *Except as*

provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.

(b) *Expenses.* The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) Assessment of docket fee and expenses. (1) Docket fee. The docket fee may be assessed or waived by the court conducting the initial sentencing hearing and may be assessed against the juvenile or the parent of the juvenile. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) *Expenses.* Expenses may be waived or assessed against the juvenile or a parent of the juvenile. When expenses are recovered from a party against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery.

(3) *Prohibited assessment.* Docket fees or expenses shall not be assessed against the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state.

(d) Cases in which venue is transferred. If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending courty shall not be an obligation of the receiving county except to the extent that the sending county's proportionate share of the expenses is collected by the receiving court. Unless otherwise ordered by the court, all amounts collected shall first be applied toward payment of restitution, then toward the payment of the docket fee.

Sec. 19. K.S.A. 2008 Supp. 59-104 is hereby amended to read as follows: 59-104. (a) *Docket fee.* (1) Except as otherwise provided by law, no case shall be filed or docketed in the district court under the provisions of chapter 59 of the Kansas Statutes Annotated or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated without payment of an appropriate docket fee as follows:

(A) On and after July 1, 2008 through June 30, 2010:	
Treatment of mentally ill	\$59.00
Treatment of alcoholism or drug abuse	36.50
Determination of descent of property	51.50
Termination of life estate	50.50
Termination of joint tenancy	50.50
Refusal to grant letters of administration	50.50
Adoption	50.50
Filing a will and affidavit under K.S.A. 59-618a	50.50
Guardianship	71.50
Conservatorship	71.50
Trusteeship	71.50
Combined guardianship and conservatorship	71.50
Certified probate proceedings under K.S.A. 59-213, and amendments	
thereto	25.50
Decrees in probate from another state	110.50
Probate of an estate or of a will	111.50
Civil commitment under K.S.A. 59-29a01 et seq	35.50
(B) On and after July 1, 2010:	
Treatment of mentally ill	34.50
Treatment of alcoholism or drug abuse	34.50
Determination of descent of property	49.50

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Termination of life estate	48.50
Termination of joint tenancy	48.50
Refusal to grant letters of administration	48.50
Adoption	48.50
Filing a will and affidavit under K.S.A. 59-618a	48.50
Guardianship	69.50
Conservatorship	69.50
Trusteeship	69.50
Combined guardianship and conservatorship	69.50
Certified probate proceedings under K.S.A. 59-213, and amendments	
thereto	23.50
Decrees in probate from another state	108.50
Probate of an estate or of a will	109.50
Civil commitment under K.S.A. 59-29a01 et seq	33.50

(2) The docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.

(b) *Poverty affidavit in lieu of docket fee and exemptions.* The provisions of subsection (b) of K.S.A. 60-2001 and K.S.A. 60-2005, and amendments thereto, shall apply to probate docket fees prescribed by this section.

(c) *Disposition of docket fee.* Statutory charges for the law library and for the prosecuting attorneys' training fund shall be paid from the docket fee. The remainder of the docket fee shall be paid to the state treasurer in accordance with K.S.A. 20-362, and amendments thereto.

(d) Additional court costs. Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, transcripts and publication of legal notice, executor or administrator fees, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties or estate as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.";

And by renumbering the remaining sections accordingly;

On page 4, by striking all in line 16 and inserting the following:

"Sec. 22. K.S.A. 2008 Supp. 60-1621 is hereby amended to read as follows: 60-1621. (a) No post-decree motion petitioning for a modification or termination of separate maintenance, for a change in legal custody, residency, visitation rights or parenting time or for a modification of child support shall be filed or docketed in the district court without payment of a docket fee in the amount of \$42 on and after July 1, 2008 through June 30, 2010, and \$40 on and after July 1, 2010, to the clerk of the district court.

(b) A poverty affidavit may be filed in lieu of a docket fee as established in K.S.A. 60-2001, and amendments thereto.

(c) The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with subsection (f) of K.S.A. 20-362, and amendments thereto.

(d) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.

Sec. 23. K.S.A. 2008 Supp. 60-2001 is hereby amended to read as follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of \$156 on and after July 1, 2008 through June 30, 2010, and \$154 on and after July 1, 2010, to the clerk of the district court. The docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee stablished by law or otherwise to collect a fee. Except as provided further, the docket fee established in this subsection shall be the only be established by an ext of the legislature and no other authority is established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.

(b) Poverty affidavit in lieu of docket fee. (1) Effect. In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in (A) the six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such statement shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require an inmate to pay less than \$3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of \$3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

(2) Form of affidavit. The affidavit provided for in this subsection shall be in the following form and attached to the petition:

State of Kansas, _____ County.

In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

(c) Disposition of fees. The docket fees and the fees for service of process shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. For every person to be served by the sheriff, the persons requesting service of process shall provide proper payment to the clerk and the clerk of the district court shall forward the service of process fee to the sheriff in accordance with K.S.A. 28-110, and amendments thereto. The service of process fee, if paid by check or money order, shall be made payable to the sheriff. Such service of process fee shall be submitted by the sheriff at least monthly to the county treasurer for deposit in the county treasury and credited to the county general fund. The docket fee shall be disbursed in accordance with K.S.A. 20-362 and amendments thereto.

(d) Additional court costs. Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any mileage for serving any papers or process.

Sec. 24. K.S.A. 2008 Supp. 60-2203a is hereby amended to read as follows: 60-2203a. (a) After the commencement of any action in any district court of this state, or the courts

of the United States in the state of Kansas or in any action now pending heretofore commenced in such courts, which does not involve title to real estate, any party to such action may give notice in any other county of the state of the pendency of the action by filing for record with the clerk of the district court of such other county a verified statement setting forth the parties to the action, the nature of the action, the court in which it is pending, and the relief sought, which shall impart notice of the pendency of the action and shall result in the same lien rights as if the action were pending in that county. The lien shall be effective from the time the statement is filed, but not to exceed four months prior to the entry of judgment except as provided in subsection (c). The party filing such notice shall within 30 days after any satisfaction of the judgment entered in such action, or any other final disposition thereof, cause to be filed with such clerk of the district court a notice that all claims in such action are released. If the party filing fails or neglects to do so after reasonable demand by any party in interest, such party shall be liable in damages in the same amounts and manner as is provided by law for failure of a mortgagee to enter satisfaction of a mortgage. Upon the filing of such a notice of the pendency of an action the clerk shall charge a fee of \$14 and shall enter and index the action in the same manner as for the filing of an original action. Upon the filing of a notice of release, the notice shall likewise be entered on the docket. The fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the court procedure. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the court procedure. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per fee, to fund the costs of non-judicial personnel.

(b) Any notice of the type provided for in subsection (a) which was filed on or after January 10, 1977, and prior to the effective date of this act shall be deemed to impart notice of the pendency of the action in the same manner as if the provisions of subsection (a) were in force and effect on and after January 10, 1977.

(c) Notwithstanding the foregoing provisions of this section, the filing of a notice of the pendency of an action pursuant to subsection (a) shall create no lien rights against the property of an employee of the state or a municipality prior to the date judgment is rendered if the pleadings in the pending action allege a negligent or wrongful act or omission of the employee while acting within the scope of such employee's employment, regardless of whether or not it is alleged in the alternative that the employee was acting outside of such employee's employment. A judgment against an employee shall become a lien upon such employee's property in the county where notice is filed pursuant to subsection (a) when the judgment is rendered only if it is found that (1) the employee's negligent or wrongful act or omission occurred when the employee. In such cases the lien shall not be effective prior to the date judgment was rendered. As used in this subsection (c), "employee'' shall have the meaning ascribed to such term in K.S.A. 75-6102, and amendments thereto.

Sec. 25. K.S.A. 2008 Supp. 61-2704 is hereby amended to read as follows: 61-2704. (a) An action seeking the recovery of a small claim shall be considered to have been commenced at the time a person files a written statement of the person's small claim with the clerk of the court if, within 90 days after the small claim is filed, service of process is obtained or the first publication is made for service by publication. Otherwise, the action is deemed commenced at the time of service of process or first publication. An entry of appearance shall have the same effect as service.

(b) Upon the filing of a plaintiff's small claim, the clerk of the court shall require from the plaintiff a docket fee of \$39 on and after July 1, 2008 through June 30, 2010, and \$37 on and after July 1, 2010, if the claim does not exceed \$500; or \$59 on and after July 1, 2008 through June 30, 2010, and \$57 on and after July 1, 2010, if the claim exceeds \$500; unless for good cause shown the judge waives the fee. The docket fee shall be the only costs

required in an action seeking recovery of a small claim. No person may file more than 20 small claims under this act in the same court during any calendar year.

(c) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.

Sec. 26. K.S.A. 2008 Supp. 61-4001 is hereby amended to read as follows: 61-4001. (a) Docket fee. No case shall be filed or docketed pursuant to the code of civil procedure for limited actions without the payment of a docket fee in the amount of \$37 on and after July 1, 2008 through June 30, 2010, and \$35 on and after July 1, 2010, if the amount in controversy or claimed does not exceed \$500; \$57 on and after July 1, 2008 through June 30, 2010, and \$55 on and after July 1, 2008 through June 30, 2010, and \$55 on and after July 1, 2010, if the amount in controversy or claimed exceed \$5,000; or \$103 on and after July 1, 2008 through June 30, 2010, and \$101 on and after July 1, 2010, if the amount in controversy or claimed exceeds \$5,000. If judgment is rendered for the plaintiff, the court also may enter judgment for the plaintiff for the amount of the docket fee paid by the plaintiff.

(b) Poverty affidavit; additional court costs; exemptions for the state and municipalities. The provisions of subsections (b), (c) and (d) of K.S.A. 60-2001 and 60-2005 and amendments thereto, shall be applicable to lawsuits brought under the code of civil procedure for limited actions.

(c) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.

Sec. 27. K.S.A. 20-362, 20-2207, 20-2208, 20-3207, 22-2410, 59-2971 and 59-29b71 and K.S.A. 2008 Supp. 8-2107, 8-2110, 20-3002, 20-3202, 20-3205, 21-4619, 21-4619d, 23-108a, 28-170, 28-172a, 28-177, 38-1511, 38-1613, 38-2215, 38-2314, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 are hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all in lines 10 through 14 and inserting the following: "AN ACT concerning courts; relating to court fees and costs; creating the judicial branch surcharge fund; relating to docket fees; prosecuting attorneys' training fund; judicial council; commission on judicial performance; funding the Kansas criminal code recodification commission; court of appeals; district courts; transmittal of documents; amending K.S.A. 20-362, 20-2207, 20-2208, 20-3207, 22-2410, 59-2971 and 59-29b71 and K.S.A. 2008 Supp. 8-2107, 8-2110, 20-3002, 20-3202, 20-3205, 21-4619, 23-108a, 28-170, 28-172a, 28-177, 38-2215, 38-2314, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 21-4619d, 38-1511 and 38-1613.";

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

LANCE KINZER JEFF WHITHAM JANICE L. PAULS Conferees on part of House

THOMAS C. OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate

Senator Owens moved the Senate adopt the Conference Committee Report on **SB 66**. On roll call, the vote was: Yeas 36, Nays 2, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Pyle.

Absent or Not Voting: Brungardt, Wysong.

The Conference Committee report was adopted.

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **HB 2052; S Sub for HB 2072** and **HB 2162**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2052**, submits the following report:

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

On page 1, following line 14, by inserting the following:

"New Section 1. Sections 1 through 19, and amendments thereto, shall be known and may be cited as the public adjusters licensing act, and it shall govern the qualifications and procedures for the licensing of public adjusters, on and after July 1, 2009. It specifies the duties of and restrictions on public adjusters, which include limiting their licensure to assisting insureds in first party claims.

New Sec. 2. As used in sections 1 through 19, and amendments thereto: (a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

(b) "Catastrophic disaster" means, according to the federal response plan, an event:

(1) Declared by the president of the United States or governor of Kansas;

(2) results in large numbers of deaths and injuries;

(3) causes extensive damage or destruction of facilities that provide and sustain human needs;

(4) produces an overwhelming demand on state and local response resources and mechanisms;

(5) causes a severe long-term effect on general economic activity; and

(6) severely affects state, local and private sector capabilities to begin and sustain response activities.

(c) "Commissioner" means the state commissioner of insurance.

(d) "FBI" means the federal bureau of investigation.

(e) "Fingerprint" means an impression of the lines on a finger taken for purpose of identification. The impression may be electronic or in ink converted to electronic format.

(f) "Home state" means the District of Columbia and any state or territory of the United States in which a public adjuster's principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a law governing public adjusters substantially similar to this act, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the home state.

(g) "KBI" means the Kansas bureau of investigation.

(h) "Licensed public adjuster" means a public adjuster licensed in accordance with this act.

(i) "NAIC" means the national association of insurance commissioners and its affiliates and subsidiaries.

(j) "Person" means an individual or a business entity.

(k) "Public adjuster" means any individual who:

(1) For compensation or any other thing of value, and solely in relation to first party claims arising under insurance claims or contracts that insure the real or personal property of the insured, aids or acts on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by and limited to commercial lines insurance contracts;

(2) advertises for employment as a public adjuster of insurance claims or directly or indirectly solicits business or represents to the public that such person is a public adjuster of first party insurance claims for losses or damages to real or personal property covered by and limited to commercial lines insurance contracts; or

(3) for compensation or any other thing of value, investigates or adjusts losses or advises an insured about first party claims for losses or damages to real or personal property of the insured covered by and limited to commercial lines insurance contracts, for another person engaged in the business of adjusting losses or damages covered by and limited to commercial lines insurance contracts.

(l) "Uniform individual application" means the current version of the NAIC uniform individual application for resident and nonresident individuals.

(m) "Uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.

New Sec. 3. (a) A person shall not act as or represent that such person is a public adjuster in this state unless the person is an individual licensed as a public adjuster in accordance with this act.

(b) A licensed public adjuster shall not misrepresent to a claimant that the individual is an adjuster representing an insurer in any capacity, including acting as an employee of the insurer or acting as an independent adjuster, unless so appointed by an insurer in writing to act on the insurer's behalf for that specific claim or purpose. A licensed public adjuster is prohibited from charging that specific claimant a fee when appointed by the insurer and the appointment is accepted by the licensed public adjuster.

(c) Notwithstanding the provisions of this section, a license as a public adjuster shall not be required of the following:

(1) An attorney-at-law admitted to practice in this state, when acting in such person's professional capacity as an attorney;

(2) a person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;

(3) a person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, including photographers, estimators, private investigators, engineers and handwriting experts;

(4) a licensed health care provider, or employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient; or

(5) a person who settles subrogation claims between insurers.

New Sec. 4. (a) An individual applying for a public adjuster license shall make application to the commissioner on the appropriate uniform application or other application prescribed by the commissioner.

(b) The applicant shall declare under penalty of perjury and under penalty of refusal, suspension or revocation of the license, that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief.

(c) In order to make a determination of license eligibility, the commissioner shall require a criminal history record check on each applicant who is not exempt from pre-licensing examination pursuant to section 7, and amendments thereto.

New Sec. 5. (a) Before issuing a public adjuster license to an applicant under this act, the commissioner shall find that the applicant:

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(1) Is eligible to designate this state as the applicant's home state or is a nonresident who is not eligible for a license under section 8, and amendments thereto;

(2) has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in section 10, and amendments thereto;

(3) is trustworthy, reliable and of good reputation, evidence of which may be determined by the commissioner;

(4) is financially responsible to exercise the rights and privileges under the license and has provided proof of financial responsibility as required in section 11, and amendments thereto;

(5) has paid an application fee of \$100; and

(6) maintains an office in the home state with public access during regular business hours or by reasonable appointment.

(b) In addition to satisfying the requirements of subsection (a), an applicant shall

(1) Be at least 18 years of age; and

(2) have successfully passed the public adjuster examination.

(c) The commissioner may require any documents reasonably necessary to verify the information contained in the application.

New Sec. 6. (a) An applicant for a public adjuster license under this act shall pass a written examination, unless exempt from this requirement pursuant to section 7, and amendments thereto. The examination shall test the knowledge of the individual concerning the duties and responsibilities of a public adjuster and the insurance laws and regulations of this state. Examinations required by this section shall be developed and conducted under rules and regulations prescribed by the commissioner.

(b) The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations.

(c) An applicant who fails to appear for the examination as scheduled or fails to pass the examination may retake the examination following a waiting period of not less than seven days following the date of the first examination. If the applicant again fails to satisfactorily complete the examination, the applicant may retake the examination following a waiting period of not less than seven days following the date of the second examination. If the applicant again fails to satisfactorily complete the examination, the applicant may retake the examination following a waiting period of not less than six months following the date of the third examination, except that following a waiting period of not less than two years following the date of the third examination, the applicant will be treated as a new applicant and new examination and waiting periods shall apply.

New Sec. 7. (a) An applicant who applies for a public adjuster license in this state, who is currently licensed as a public adjuster in another state based on the individual's passage of a public adjuster examination, shall not be required to complete any pre-licensing examination.

(b) An individual licensed as a public adjuster in another state, based on the individual's passage of a public adjuster examination, who moves to this state shall make application within 90 days of establishing legal residence in this state to become a resident licensee pursuant to section 5, and amendments thereto. No pre-licensing examination shall be required of that individual to obtain a public adjuster license.

(c) An individual who applies for a public adjuster license in this state and who was previously licensed as a public adjuster in this state, shall not be required to complete any pre-licensing examination, if the individual's application for licensure as a public adjuster is received within 12 months of the cancellation of the applicant's previous license in this state and if, at the time of cancellation, the applicant was in good standing in this state.

New Sec. 8. (a) Unless denied licensure pursuant to section 10, and amendments thereto, a nonresident individual shall receive a nonresident public adjuster license, if:

(1) $\,$ The individual is currently licensed and in good standing as a resident public adjuster in that individual's home state;

(2) the individual has submitted the proper request for licensure, has paid the appropriate fee required by section 5, and amendments thereto, and, if required by the commissioner to do so, has provided proof of financial responsibility in accordance with section 11, and amendments thereto;

(3) the individual has submitted to the commissioner the appropriate completed application for licensure; and

(4) $\,$ the individual's home state awards nonresident public adjuster licenses to residents of this state on the same basis.

(b) The commissioner may verify the public adjuster's licensing status through the producer database maintained by the NAIC.

(c) As a condition to continuation of a public adjuster license issued under this section, the licensee shall maintain a resident public adjuster license in the licensee's home state. The nonresident public adjuster license issued under this section shall terminate and be surrendered immediately to the commissioner, if the home state public adjuster license terminates for any reason, unless the public adjuster has a new home state and has been issued a license as a resident public adjuster in the new home state. Notification to the state or states where the nonresident license is issued must be made as soon as practicable, but no later than 30 days of a change in the new home state resident license. The license shall include in such notification the licensee's new and old addresses. A new home state resident license is required for a nonresident license to remain valid, and the new home state must have reciprocity with this state, in order for the nonresident license to remain valid.

New Sec. 9. (a) An individual who has met the requirements for licensure under this act shall be issued a public adjuster license. A public adjuster license shall remain in effect, unless revoked, terminated or suspended, as long as the request for renewal is timely submitted and a license renewal fee of \$100 is paid and any other requirements for license renewal are met by the due date. The licensee shall inform the commissioner by any means acceptable to the commissioner of a change of address, change of legal name or change of information submitted on the application within 30 days of the change.

(b) A public adjuster shall be subject to the provisions of subsection (9) of K.S.A. 40-2404, and amendments thereto.

(c) A public adjuster who allows such person's license to lapse may, within 12 months from the due date of the renewal, be issued a new public adjuster license upon the commissioner's receipt of proof that the licensee has satisfactorily completed the renewal process and the licensee's payment of a reinstatement fee of \$100. The new public adjuster license shall be effective the date the commissioner receives such proof and the reinstatement fee.

(d) A licensed public adjuster that is unable to comply with license renewal procedures due to military service, a long-term medical disability or some other extenuating circumstance, may request an extension of time to comply with those procedures.

(e) The public adjuster license shall contain the licensee's name, city and state of business address, personal identification number, the date of issuance, the expiration date and any other information the commissioner deems necessary.

(f) In order to assist in the performance of the commissioner's duties, the commissioner may contract with non-governmental entities, including the NAIC, to perform any ministerial functions, including the collection of fees and data related to licensing that the commissioner may deem appropriate.

New Sec. 10. (a) The commissioner may suspend, revoke or refuse to issue or renew a public adjuster's license for any of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(2) violating:

(A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder;

(B) any subpoena or order of the commissioner;

(C) any insurance law or regulation of another state; or

 $\left(D\right) \;$ any subpoena or order issued by the regulatory official for insurance in another state;

(3) obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) misappropriating, converting or improperly withholding any monies or properties received in the course of doing insurance business;

(5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) having been convicted of a misdemeanor or felony;

(7) having admitted or committed any insurance unfair trade practice or insurance fraud;

(8) using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(9) having an insurance license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(10) forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license;

(12) knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the commissioner;

(13) failing to comply with an administrative or court order imposing a child support obligation upon the applicant or license holder; or

(14) failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

(b) In addition, the commissioner may deny, suspend, revoke or refuse renewal of a public adjuster's license if the commissioner finds that the interests of the public are not properly served under such license. Any action taken under this section which affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the Kansas administrative procedure act.

(c) In lieu of any action under subsection (a), the commissioner may:

(1) Censure the individual; or

(2) issue an order imposing an administrative penalty up to a maximum of \$500 for each violation, but not to exceed \$2,500 for the same violation occurring within any six consecutive calendar months from the date of the original violation, unless such person knew or should have known that the violative act could give rise to disciplinary action under subsection (a). If such person knew or reasonably should have known the violative act could give rise to any disciplinary proceeding authorized by subsection (a), the commissioner may impose a penalty up to a maximum of \$1,000 for each violation, but not to exceed \$5,000 for the same violation occurring within any six consecutive calendar months from the date of the original violation.

(d) The commissioner shall remit all such fines collected under subsection (c) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(e) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this act against any individual who is under investigation for or charged with a violation of this act, even if the individual's license or registration has been surrendered or has lapsed by operation of law.

New Sec. 11. (a) Prior to issuance of a public adjuster license and for the duration of the license, the commissioner may require the applicant to furnish evidence of financial responsibility, in a format prescribed by the commissioner, by means of:

(1) A surety bond executed and issued by an insurer authorized to issue surety bonds in this state, which bond:

(A) Shall be in such reasonable amount as the commissioner may require;

(B) shall be in favor of the commissioner and shall specifically authorize recovery by the commissioner on behalf of any person in this state who sustains damages as the result of erroneous acts, failure to act, conviction of fraud or conviction of unfair practices in the applicant's capacity as a public adjuster, and

(C) shall not be terminated unless at least 30-days prior written notice has been filed by the insurer with the commissioner and given to the licensee.

(2) An irrevocable letter of credit issued by a qualified financial institution, which letter of credit:

(A) Shall be in such reasonable amount as the commissioner may require;

(B) shall be to an account of the commissioner and subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, fraudulent acts or unfair practices in the applicant's capacity as a public adjuster; and

(C) shall not be terminated unless at least 30-days prior written notice has been filed by the issuer with the commissioner and given to the licensee.

(b) Where the commissioner has required an applicant to furnish evidence of financial responsibility pursuant to subsection (a):

(1) The issuer of the evidence of financial responsibility shall notify the commissioner upon termination of the bond or letter of credit, unless otherwise directed by the commissioner;

(2) the commissioner may ask for the evidence of the public adjuster's financial responsibility at any time the commissioner deems relevant; and

(3) the authority to act as a public adjuster shall terminate automatically if the evidence of financial responsibility terminates or becomes impaired.

New Sec. 12. (a) As used in this section:

(1) "Biennial due date" means the date of birth of any public adjuster who is required to complete continuing education credits and report the completion of the continuing education credits to the commissioner, except that such due date shall not be earlier than two years from the date of the public adjuster's initial licensure under this act.

(2) "Biennium" means, for any public adjuster who was born in an odd-numbered year, the two-year period starting with the public adjuster's biennial due date in 2011 and each two-year period thereafter. For any public adjuster who was born in an even-numbered year, such term means the two-year period starting with the public adjuster's biennial due date in 2012 and each two-year period thereafter.

(b) An individual, who holds a public adjuster license and who is not exempt under subsection (d), shall satisfactorily complete a minimum of 12 hours of continuing education courses, which shall include 11 hours of property/casualty or general continuing education courses and one hour of ethics, reported on a biennial basis in conjunction with the license renewal cycle. Only continuing education courses approved by the commissioner shall be used to satisfy the requirements of this subsection.

(c) Unless suspended, revoked or refused renewal pursuant to section 10, and amendments thereto, a public adjuster's license shall remain in effect as long as the education requirements for a resident public adjuster are met by such public adjuster's biennial due date.

(d)~ The continuing education requirements of this section shall not apply to licensees holding nonresident public adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this state on the same basis.

New Sec. 13. (a) No public adjuster shall charge, agree to or accept as compensation or reimbursement any payment, commission, fee or other thing of value equal to more than 10% of any insurance settlement or proceeds.

(b) A public adjuster shall not pay a commission, service fee or other valuable consideration to a person for investigating or settling first party claims in this state, if that person is a business entity or is an individual required to be licensed under this act and is not so licensed.

(c) A person shall not accept a commission, service fee or other valuable consideration for investigating or settling first party claims in this state, if that person is a business entity or is an individual required to be licensed under this act and is not so licensed.

(d) No public adjuster shall require, demand or accept any fee, retainer, compensation, deposit or other thing of value, prior to settlement of a claim.

New Sec. 14. (a) Public adjusters shall ensure that all contracts for their services are in writing and contain the following:

(1) Legible full name of the public adjuster signing the contract;

(2) permanent home state business address and phone number of the public adjuster;

(3) the public adjuster's license number;

(4) title of "public adjuster contract";

(5) the insured's full name, street address, insurance company name and policy number, if known or upon notification;

(6) a description of the loss and its location, if applicable;

(7) description of services to be provided to the insured;

(8) signatures of the public adjuster and the insured;

(9) the date the contract was signed by the public adjuster and the date the contract was signed by the insured;

(10) $\,$ attestation language stating that the public adjuster is fully bonded pursuant to this act; and

(11) full salary, fee, commission, compensation or other considerations the public adjuster is to receive for services to be rendered by the public adjuster for or on behalf of the insured.

(b) The public adjuster contract may specify that the public adjuster shall be named as a co-payee on an insurer's payment of a claim. If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified. Compensation provisions in a public adjuster contract shall not be redacted in any copy of the contract provided to the commissioner.

(c) If the insurer, not later than 72 hours after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:

(1) Not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;

(3) be entitled only to reasonable compensation from the insured for services provided by the public adjuster on behalf of the insured, based on the time spent on a claim and expenses incurred by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.

(d) A public adjuster shall provide the insured a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party who is involved in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, including, but not limited to, any ownership of, other than as a minority stockholder, or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop or any other firm that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged. As used in this subsection, the word "firm" shall include any individual or business entity.

(e) A public adjuster contract may not contain any contract term that:

(1) Allows the public adjuster's percentage fee to be collected when money is due from an insurance company, but not paid, or that allows a public adjuster to collect the entire fee from the first check issued by an insurance company, rather than as percentage of each check issued by an insurance company;

(2) requires the insured to authorize an insurance company to issue a check only in the name of the public adjuster;

(3) imposes collection costs or late fees; or

(4) precludes a public adjuster from pursuing civil remedies.

(f) Prior to the signing of the contract the public adjuster shall provide the insured with a separate disclosure document regarding the claim process that states:

(1) Property insurance policies obligate the insured to present a claim to the insured's insurance company for consideration;

(2) $\,$ there are three types of adjusters that could be involved in that process, and they are as follows:

(A) A company adjuster who is an employee of an insurance company, represents the interest of the insurance company, is paid by the insurance company and will not charge the insured a fee;

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(B) an independent adjuster who is hired on a contract basis by an insurance company to represent the insurance company's interest in the settlement of the claim, who is paid by the insured's insurance company and will not charge the insured a fee; or

(C) a public adjuster who does not work for any insurance company but works for an insured to assist in the preparation, presentation and settlement of a claim. An insured engages a public adjuster by signing a contract agreeing to pay the public adjuster a fee or commission based on a percentage of the settlement, or other method of compensation;

(3) the insured is not required to hire a public adjuster to help the insured meet the insured's obligations under the policy, but has the right to do so;

(4) the insured has the right to initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster and the insurer's attorney, or any other person regarding the settlement of the insured's claim;

(5) the public adjuster is not a representative or employee of the insurer;

(6) the salary, fee, commission or other consideration is the obligation of the insured, not the insurer.

(g) The contracts shall be executed in duplicate to provide an original contract to the public adjuster and an original contract to the insured. The public adjuster's original contract shall be available at all times for inspection without notice by the commissioner.

(h) The public adjuster shall provide the insurer a notification letter, which has been signed by the insured, authorizing the public adjuster to represent the insured's interest.

(i) The insured has the right to rescind the public adjuster contract within three business days after the date the contract was signed. The rescission shall be in writing and mailed or delivered to the public adjuster at the address in the contract within the three business day period.

(j) If the insured exercises the right to rescind the contract, anything of value given by the insured under the contract will be returned to the insured within 15 business days following the receipt by the public adjuster of the rescission notice.

New Sec. 15. (a) A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this section shall include the following:

(1) Name of the insured;

(2) date, location and amount of the loss;

(3) copy of the contract between the public adjuster and insured;

(4) name of the insurer and the amount, expiration date and number of each policy carried by the insured with respect to the loss;

(5) itemized statement of the insured's recoveries;

(6) itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;

(7) a register of all moneys received, deposited, disbursed or withdrawn in connection with a transaction with an insured, including fees, transfers and disbursements from a trust account and all transactions concerning all interest-bearing accounts;

(8) name of public adjuster who executed the contract;

(9) name of the attorney representing the insured, if applicable, and the name of the claims representatives of the insurance company; and

(10) evidence of financial responsibility in the format prescribed by the commissioner.

(b) Records shall be maintained for at least five years after the termination of the transaction with an insured and shall be open to examination by the commissioner at all times.

(c)~ Records submitted to the commissioner in accordance with this section that contain information identified in writing as proprietary by the public adjuster shall be treated as confidential by the commissioner and shall not be open for inspection under the Kansas open records act.

(d) The provisions of subsection (c) shall expire on July 1, 2014, unless the legislature acts to reenact such provisions. The provisions of subsection (c) shall be reviewed by the legislature prior to July 1, 2014.

New Sec. 16. (a) A public adjuster is obligated, under the public adjuster's license, to serve with objectivity and complete loyalty, the interest of the insured only and to render to the insured such information, counsel and service, as within the knowledge, understanding

and opinion in good faith of the public adjuster, as will best serve the insured's insurance claim needs and interest.

(b) A public adjuster shall not solicit, or attempt to solicit, an insured during the progress of a loss-producing occurrence, as defined in the insured's insurance contract.

(c) A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this act.

(d) A public adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, unless full written disclosure has been made to the insured as set forth in section 14, and amendments thereto.

(e) A public adjuster shall not acquire any interest in salvage of property subject to the contract with the insured, unless the public adjuster obtains written permission from the insured after settlement of the claim with the insurer as set forth in section 14, and amendments thereto.

(f) The public adjuster shall abstain from referring or directing the insured to get needed repairs or services in connection with a loss from any person, unless disclosed to the insured:

(1) With whom the public adjuster has a financial interest; or

 $(2) \quad \mbox{from whom the public adjuster may receive direct or indirect compensation for the referral.}$

(g) The public adjuster shall disclose to an insured if the public adjuster has any interest or will be compensated by any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop or any other firm that performs any work in conjunction with damages caused by the insured loss. As used in this subsection "firm" shall include any business entity or individual.

(h) Any compensation or anything of value in connection with an insured's specific loss that will be received by a public adjuster shall be disclosed by the public adjuster to the insured in writing, including the source and amount of any such compensation.

(i) Public adjusters shall adhere to the following general ethical requirements:

(1) A public adjuster shall not undertake the adjustment of any claim if the public adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the public adjuster's current expertise;

(2) a public adjuster shall not knowingly make any oral or written material misrepresentations or statements which are false or maliciously critical and intended to injure any person engaged in the business of insurance to any insured client or potential insured client;

(3) no licensed public adjuster may represent or act as a company adjuster or independent adjuster on the same claim;

(4) the public adjuster contract shall not be construed to prevent an insured from pursuing any civil remedy after the three-business day revocation or cancellation period;

(5)~ a public adjuster shall not enter into a contract or accept a power of attorney that vests in the public adjuster the effective authority to choose the persons who shall perform repair work; and

(6) a public adjuster shall ensure that all contracts for the public adjuster's services are in writing and set forth all terms and conditions of the engagement.

 $(j) \quad A \ public \ adjuster may not agree to any loss settlement without the insured's knowledge and consent.$

New Sec. 17. (a) The public adjuster shall report to the commissioner any administrative action taken against the public adjuster in another jurisdiction or by another governmental agency in this state within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

(b) Within 30 days of the initial pretrial hearing date, the public adjuster shall report to the commissioner any criminal prosecution of the public adjuster taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

New Sec. 18. The commissioner shall promulgate such reasonable rules and regulations as are necessary to carry out the provisions of this act. The commissioner shall adopt such rules and regulations by July 1, 2010.

New Sec. 19. If any provisions of this act, or the application of a provision to any person or circumstances, shall be held invalid, the remainder of the act, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

New Sec. 20. On and after July 1, 2009, the commissioner may adopt by rules and regulations, any later version of the RBC instructions promulgated by the NAIC, which are consistent with the provisions of this act, including the provisions of K.S.A. 40-2c03, and amendments thereto, provided that before any later version may be adopted by the commissioner in rules and regulations, the commissioner shall prepare an impact statement indicating the projected impact upon domestic insurers and notify any affected insurer of the projected impact. If the projected impact is likely to cause the amount of a domestic insurer's total adjusted capital or its RBC report for the previous year to vary by more than 2.5% or to cause a domestic insurer's control level to change upon application of the later version of the risk-based capital instructions, then such later version shall not be adopted in rules and regulations until such later version is approved by legislative action.

Sec. 21. On and after July 1, 2009, K.S.A. 2008 Supp. 40-2c01 is hereby amended to read as follows: 40-2c01. As used in this act:

(a) "Adjusted RBC report" means an RBC report which has been adjusted by the commissioner in accordance with K.S.A. 40-2c04, and amendments thereto.

(b) "Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required to address a RBC level event.

(c) "Domestic insurer" means any insurance company or risk retention group which is licensed and organized in this state.

(d) "Foreign insurer" means any insurance company or risk retention group not domiciled in this state which is licensed or registered to do business in this state pursuant to article 41 of chapter 40 of the Kansas Statutes Annotated or K.S.A. 40-209, and amendments thereto.

(e) "NAIC" means the national association of insurance commissioners.

(f) "Life and health insurer" means any insurance company licensed under article 4 or 5 of chapter 40 of the Kansas Statutes Annotated or a licensed property and casualty insurer writing only accident and health insurance.

(g) "Property and casualty insurer" means any insurance company licensed under articles 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the Kansas Statutes Annotated, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers.

(h) "Negative trend" means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the "trend test calculation" included in the RBC instructions defined in subsection (j).

(i) "RBC" means risk-based capital.

(j) "RBC instructions" mean the risk-based capital instructions promulgated by the NAIC, which are in effect on December 31, 2007 2008, or any later version promulgated by the NAIC as may be adopted by the commissioner under section 20, and amendments thereto.

(k) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(1) "Company action level RBC" means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

(2) "regulatory action level RBC" means the product of 1.5 and its authorized control level RBC;

(3) "authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions; and

(4) "mandatory control level RBC" means the product of .70 and the authorized control level RBC.

(l) "RBC plan" means a comprehensive financial plan containing the elements specified in K.S.A. 40-2c06, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan." (m) "RBC report" means the report required by K.S.A. 40-2c02, and amendments thereto.

- (n) "Total adjusted capital" means the sum of:
- (1) An insurer's capital and surplus or surplus only if a mutual insurer; and
- (2) such other items, if any, as the RBC instructions may provide.
- (o) "Commissioner" means the commissioner of insurance.

Sec. 22. On and after July 1, 2009, K.S.A. 2008 Supp. 40-229a is hereby amended to read as follows: 40-229a. (a) (1) (A) All cash, securities, real estate deeds, mortgages or other assets deposited with the commissioner of insurance pursuant to the provisions of the insurance code of the state of Kansas shall be deposited with any Kansas financial institution acceptable to the commissioner through which a custodial or controlled account, a joint custody receipt arrangement or any combination of these or other measures that are acceptable to the commissioner is used.

(B) All such deposits shall be held by such financial institution on behalf of the commissioner in trust for the use and benefit of such company and such company's policyholders and creditors. Such assets shall be released from such deposits only upon written approval of the commissioner.

(C) All income from deposits belong to the depositing organization and shall be paid to it as it becomes available. The commissioner, upon written approval, may direct the financial institution to permit exchange of securities or assets upon deposit of specified substituted securities or assets.

(D) All forms for deposit, withdrawal or exchange shall be prescribed, prepared and furnished by the commissioner and no facsimile signatures shall be used or recognized.

(E) The commissioner or assistant commissioner of insurance or insurance department employee authorized by the commissioner may at any time inspect the securities on deposit in any such financial institution.

(F) Nothing in this act shall be construed to hold the state of Kansas, the commissioner, assistant commissioner or authorized employee liable either personally or officially for any default of such financial institution.

(2) Real estate shall be deposited with the commissioner by the depositing organization executing a deed or assignment conveying title thereto to the commissioner, in trust for the use and benefit of such company. Such deeds or assignment shall be recorded in the office of the register of deeds of the county in which such real estate is situated. When the depositing organization is authorized to withdraw real estate from deposit, the commissioner shall execute deeds to such organization or such other persons, companies or corporations as directed by such organization. The costs of registering such deeds shall be paid by the depositing organization.

(3) All deposits made with the commissioner shall be audited by the commissioner and the state treasurer not less frequently than once each three years. The commissioner may accept an audit performed by another governmental agency acceptable to the commissioner, in lieu of this audit requirement.

(b) Assets, except real estate assets, deposited pursuant to this section shall be held by the custodian on behalf of the commissioner as in trust for the use and benefit of the depositing organization. Such assets shall remain the specific property of the organization and shall not be subject to the claim of any third party against the custodian.

(c) The custodian is authorized to redeposit such assets with a clearing corporation as defined in K.S.A. 84-8-102 and amendments thereto, if such clearing corporation is domiciled in the United States. The custodian is authorized to hold such assets through the federal reserve bank book-entry system.

(d) The commissioner shall adopt rules and regulations to establish requirements relating to deposits under this section appropriate to assure the security and safety of such deposits, including but not limited to the following:

- (1) Capital and surplus of the custodian;
- (2) title in which deposited assets are held;
- (3) records to be kept by the custodian and the commissioner's access thereto;
- (4) periodic reports by the custodian to the commissioner;
- (5) responsibility of the custodian to indemnify the depositor for loss of deposited assets;

(6) withdrawal or exchange of deposited assets; and

(7) authority of the commissioner to terminate the deposit if the condition of the custodian should threaten the security of the deposited assets.

(e) As used in this section:

(1) "Commissioner" means the commissioner of insurance; and

(2) "financial institution" means a federal home loan bank, a savings and loan association and savings bank organized under the laws of the United States or another state, a national bank, state bank or trust company, which have main or branch offices in this state, shall at all times during which such *federal home loan bank*, savings and loan association, savings bank, national bank, state bank or trust company acts as a custodian be:

(A) No less than adequately capitalized as determined by the standards adopted by the United States banking regulators regulator charged with establishing standards for, and assessing, the institution's solvency;

(B) regulated by either state or federal banking laws, *the federal home loan bank act*, *as amended* or is a member of the federal reserve system; and

(C) legally qualified to accept custody of securities.

(3) "Main office" and "branch" shall have the meanings ascribed to such terms in K.S.A. 9-1408 and amendments thereto.

Sec. 23. On and after July 1, 2009, K.S.A. 40-2a20 is hereby amended to read as follows: 40-2a20. (a) Any insurance company other than life organized under any law of this state, with the direction or approval of a majority of its board of directors or authorized committee thereof, may:

(1) Adopt a nominee name unique to such insurance company in which such insurance company's securities may be registered;

(2) designate a state or national bank *or a federal home loan bank* having trust powers to obtain a nominee name for such insurance company in which such insurance company's securities may be registered; or

(3) designate a state or national bank having trust powers as trustee to make any investment authorized by this act in the name of such trustee or such trustee's nominee.

(b) Under the provisions of paragraphs (2) and (3) of subsection (a), the designated state or national bank *or the federal home loan bank* may arrange for such securities to be held in a clearing corporation. Such arrangement must be in accordance with a written agreement, approved by the commissioner of insurance, between the insurance company and its designated bank and must impose the same degree of responsibility on the bank as if such securities were held in definitive form by such bank.

(c) As used in this section "clearing corporation" means: (1) A corporation defined in subsection (5) of K.S.A. 84-8-102, and amendments thereto;

(2) any organization or system for clearance and settlement of securities transactions which is operated or owned by a bank, trust company or other entity that is subject to regulation by the United States federal reserve board or the United States comptroller of the currency; or

(3) any clearing agency registered with the securities and exchange commission pursuant to the securities exchange act of 1934, section 17A, and amendments thereto.

Sec. 24. On and after July 1, 2009, K.S.A. 40-2b20 is hereby amended to read as follows: 40-2b20. (a) Any life insurance company organized under any law of this state, with the direction or approval of a majority of its board of directors, may:

(1) Adopt a nominee name unique to such insurance company in which such insurance company's securities may be registered;

(2) designate a state or national bank *or a federal home loan bank* having trust powers to obtain a nominee name for such insurance company in which such insurance company's securities may be registered; or

(3) designate a state or national bank having trust powers as trustee to make any investment authorized by this act in the name of such trustee or such trustee's nominee.

(b) Under the provisions of paragraphs (2) and (3) of subsection (a), the designated state or national bank *or the federal home loan bank* may arrange for such securities to be held in a clearing corporation. Such arrangement must be in accordance with a written agreement, approved by the commissioner of insurance, between the insurance company and its

designated bank and must impose the same degree of responsibility on the bank as if such securities were held in definitive form by such bank.

(c) As used in this section "clearing corporation" means: (1) A corporation defined in subsection (3) of K.S.A. 84-8-102, and amendments thereto;

(2) any organization or system for the clearance and settlement of securities transactions which is operated or owned by a bank, trust company or other entity that is subject to regulation by the United States federal reserve board or the United States comptroller of the currency; or

(3) any clearing agency registered with the securities and exchange commission pursuant to the securities exchange act of 1934, section 17A, and amendments thereto.

Sec. 25. On and after July 1, 2009, K.S.A. 2008 Supp. 40-2136 is hereby amended to read as follows: 40-2136. Each issuer of qualified long-term care partnership program policies in this state shall: (a) Provide regular reports to both the secretary of the United States department of human services in accordance with federal law and regulations and to the Kansas health policy authority and the commissioner of insurance as provided in section 6021 of the federal deficit reduction act of 2005, public law 109-171.

(b) Provide to consumers a notice explaining the benefits associated with a partnership policy and indicating that at the time issued, the policy is a qualified state long-term care insurance partnership policy at a time and in a manner to be determined by the commissioner of insurance.

(c) Submit a partnership certification form signed by an officer of the company with all policies submitted for certification as partnership policies.

(d) Obtain verification that producers receive training required by the commissioner of insurance before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products, maintain records of compliance, and make the verification available to the commissioner of insurance upon request.

(e) Maintain records with respect to the training of its producers concerning the distribution of its partnership policies that will allow the department of insurance to provide assurance to the Kansas health policy authority that producers have received the training required by the commissioner of insurance and that producers have demonstrated an understanding of the partnership policies and their relationship to public and private coverage of long-term care, including medical assistance in this state. These records shall be maintained and made available to the commissioner of insurance upon request.

(f) (1) Offer, on a one time basis, in writing, to all existing policyholders that were issued long-term care coverage of the type certified by the insurer on or after February 8, 2006, the option to exchange their existing long-term care coverage for coverage that is intended to qualify under Kansas' long-term care partnership program. The mandatory offer of an exchange shall only apply to products issued by the insurer that are comparable to the type of policy form, such as group policies and individual policies and on the policy series that the company has certified as partnership qualified;

(2) the offer shall remain open for a minimum of 45 days from the date of mailing by the insurer;

(3) the offer shall be made on a nondiscriminatory basis without regard to the age or health status of the insured. However, the insurer may underwrite if the policy is amended to provide additional benefits or the exchange would require the issuance of a new policy. Any portion of the policy that was issued prior to the exchange date shall be priced based on the policyholder's age when the policy was originally issued. Any portion of the policy that is added as a result of the exchange may be priced based on the policyholder's age at the time of the exchange;

(4) if there is no change in coverage material to the risk, policies exchanged under this provision shall not be subject to any medical underwriting;

(5) notwithstanding paragraphs (1) and (3), an insurer is not required to offer an exchange to an individual who is eligible for benefits within an elimination period, who is, or who has been in claim status or who would not be eligible to apply for coverage due to issue age or plan design limitations under the new policy. The insurer may require that policyholders meet all eligibility requirements, including plan design, underwriting, if applicable and payment of the required premium;

(6) policies issued pursuant to this section shall be considered exchanges and not replacements and are not subject to K.A.R. 40-4-37i; and

(7) a policy received in an exchange after the effective date of the long-term care partnership program act is treated as newly issued and is eligible for partnership policy status. For purposes of applying the medicaid rules relating to Kansas' long-term care partnership program, the addition of a rider, endorsement or change in schedule page for a policy may be treated as giving rise to an exchange.";

And by renumbering the remaining sections accordingly;

Also on page 1, in line 15, preceding "K.S.A." by inserting "On and after January 1, 2010,"; On page 7, following line 39, by inserting the following:

"Sec. 27. On and after July 1, 2009, K.S.A. 2008 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2008 Supp. 75-4315d, and amendments thereto, or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2008 Supp. 75-4315d, and amendments thereto, and the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2008 Supp. 75-4315d, and amendments thereto, to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual, except documents relating to the appointment of persons to fill a vacancy in an elected office.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation, except if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except as provided herein. The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action, criminal investigation or prosecution;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of paragraphs (A) through (F) that necessitate closure of that public record.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

 $(\overline{17})$ Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

 $\rm (A)^-$ Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a release whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or release, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) the ombudsman of corrections, the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 et seq. and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(33) Financial information submitted by contractors in qualification statements to any public agency.

(34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(36) Information which would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20 and amendments thereto.

(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

(41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(43) Market research, market plans, business plans and the terms and conditions of managed care or other third party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(44) The amount of franchise tax paid to the secretary of revenue or the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) Records, other than criminal investigation records, the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; or (C) private property or persons, if the records are submitted to the agency. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.

(46) Any information or material received by the register of deeds of a county from military discharge papers (DD Form 214). Such papers shall be disclosed: To the military dischargee; to such dischargee's immediate family members and lineal descendants; to such dischargee's heirs, agents or assigns; to the licensed funeral director who has custody of the body of the deceased dischargee; when required by a department or agency of the federal or state government or a political subdivision thereof; when the form is required to perfect the claim of military service or honorable discharge or a claim of a dependent of the discharge; and upon the written approval of the commissioner of veterans affairs, to a person conducting research.

(47) Information that would reveal the location of a shelter or a safehouse or similar place where persons are provided protection from abuse.

(48) Policy information provided by an insurance carrier in accordance with subsection (h)(1) of K.S.A. 44-532, and amendments thereto. This exemption shall not be construed to preclude access to an individual employer's record for the purpose of verification of insurance coverage or to the department of labor for their business purposes.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

(g) Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

New Sec. 28. (a) An individual who qualifies as an assistance eligible individual on or after March 1, 2009, under the American recovery and reinvestment act of 2009 may elect special assisted continuation of coverage as provided in the American recovery and reinvestment act of 2009.

(b) An individual who does not have continuation of coverage as described in K.S.A. 40-2209(i), and amendments thereto, in effect on March 1, 2009, but who would be an assistance eligible individual under the American recovery and reinvestment act of 2009 if such assistance had been in effect, may elect special assisted continuation of coverage pursuant to this subsection.

(c) The employer of the terminated employee shall provide the additional notice of the right to elect coverage pursuant to this section as required by the American recovery and reinvestment act of 2009.

(d) Election as required by the American recovery and reinvestment act of 2009 shall be made by an assistance eligible individual to the insurer.

(e) Special assisted continuation of coverage elected pursuant to this section shall commence with the first period of assisted continuation of coverage beginning on or after the date of the enactment of the American recovery and reinvestment act of 2009 and shall extend for the period of special assisted continuation of coverage allowed by the American recovery and reinvestment act of 2009 and amendments thereto.

(f) With respect to individuals who elect special assisted continuation coverage pursuant to this section, the 18 months of continuation coverage required by K.S.A. 40-2209(i), and amendments thereto, shall commence on the date an individual qualifies for continuation of coverage and shall terminate 18 months thereafter with the period of special assisted continuation coverage included therein.

(g) With respect to an individual who elects special assisted coverage pursuant to this section, any preexisting conditions arising between the date of the qualifying event and ending with the first period of coverage beginning on or after the date of the enactment of the American recovery and reinvestment act of 2009 shall be disregarded for the purpose of determining the 63-day period referred to in K.S.A. 40-2209(a)(8)(L), and amendments thereto.

(h) An individual applying for special assisted continuation coverage must provide the individual's social security number to the insurer.

(i) Premiums for special assistance continuation of coverage shall be paid by the assistance eligible individual to the insurance carrier.

(j) An individual eligible for assisted continuation of coverage who elects such coverage shall be entitled to the premium subsidy provided in the American recovery and reinvestment act of 2009, and amendments thereto, so long as they meet the requirements for special assisted continuation coverage pursuant to the terms of the American recovery and reinvestment act of 2009.

(k) The insurer shall pay the subsidy required by the American recovery and reinvestment act of 2009, and amendments thereto. Such insurer shall have the right to reimbursement for the subsidy as set forth in the American recovery and reinvestment act of 2009.

(1) In all cases in which an individual described above pays the premium for continuation of coverage, the individual shall have the right to continuation of coverage for 18 months as set forth in K.S.A. 40-2209(i), and amendments thereto, with any period of premium subsidy counted toward that individual's period of continuation of coverage. In no case, shall an individual be entitled to more than 18 months of continuing of coverage or more than nine months of special assisted continuing coverage.

(m) The provisions of this section shall expire on January 1, 2011.

Sec. 29. On and after July 1, 2009, K.S.A. 40-2a20 and 40-2b20 and K.S.A. 2008 Supp. 40-229a, 40-2c01, 40-2c01a, 40-2136 and 45-221 are hereby repealed.";

And by renumbering sections accordingly;

Also on page 7, in line 40, preceding "K.S.A" by inserting "On and after January 1, 2010,"; by striking all in lines 41 and 42 and inserting the following:

"Sec. 31. This act shall take effect and be in force from and after its publication in the Kansas register.";

On page 1, in the title, in line 10, by striking all following "the"; in line 11, by striking all preceding the semicolon and inserting "regulation thereof"; also in line 11, by striking all following "amending"; in line 12, by striking all preceding the period and inserting "K.S.A. 40-2a20 and 40-2b20 and K.S.A. 2008 Supp. 40-229a, 40-2c01, 40-2136, 40-3008 and 45-221 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 40-2c01a";

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

RUTH TEICHMAN KARIN BROWNLEE CHRIS STEINEGER Conferees on part of Senate

CLARK SHULTZ VIRGIL PECK, JR. NILE DILLMORE Conferees on part of House

Senator Teichman moved the Senate adopt the Conference Committee Report on ${\bf HB}$ 2052.

On roll call, the vote was: Yeas 34, Nays 4, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Bruce, Huelskamp, Pilcher-Cook, Pyle.

Absent or Not Voting: Brungardt, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2072**, submits the following report: The Senate recedes from all of its amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee amendments, as follows:

On page 1, after line 14, by inserting the following:

"Section 1. K.S.A. 2008 Supp. 74-4914 is hereby amended to read as follows: 74-4914. (1) The normal retirement date for a member of the system shall be the first day of the month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 30 days and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Nothing herein shall prevent any person, member or retirant from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire from the system on any date on or after the attainment of the normal retirement date, but no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

(2) $\,$ No retirant shall make contributions to the system or receive service credit for any service after the date of retirement.

(3) Any member who is an employee of an affiliating employer pursuant to K.S.A. 74-4954b and amendments thereto and has not withdrawn such member's accumulated contributions from the Kansas police and firemen's retirement system may retire before such member's normal retirement date on the first day of any month coinciding with or following the attainment of age 55.

(4) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 30 days and the attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe.

(5) On or after July 1, 2006, for any retirant who is first employed or appointed in or to any position or office by a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, for any retirant who is employed by a thirdparty entity who contracts services with a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation to fill a position covered under subsection (a) of K.S.A. 72-5410, and amendments thereto, with such retirant, such participating employer shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment or appointment. If a retirant who retired on or after July 1, 1988, is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to \$15,000 or more, or commencing in calendar year 2006, and all calendar vears thereafter, \$20,000 or more in any one such calendar year, by any participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, by any third-party entity who contracts services to fill a position covered under subsection (a) of K.S.A. 72-5410, and amendments thereto, with such retirant with a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer who employs such retirant whether by contract directly with the retirant or through an arrangement with a third-party entity

shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any participating employer who contracts services with any such third-party entity to fill a position covered under subsection (a) of K.S.A. 72-5410, and amendments thereto, shall include in such contract a provision or condition which requires the third-party entity to provide the participating employer with the necessary compensation paid information related to any such position filled by the third-party entity with a retirant to enable the participating employer to comply with provisions of this subsection relating to the payment of contributions and reporting requirements. The provisions and requirements provided for in amendments made in this subsection which relate to positions filled with a retirant or employment of a retirant by a third-party entity shall not apply to any contract for services entered into prior to April 1, 2009, between a participating employer and third-party entity as described in this subsection. Any retirant employed by a participating employer or a third-party entity as provided in this subsection shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act. The provisions of this subsection shall not apply to retirants employed as substitute teachers or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature prior to January 8, 2000. The provisions of this subsection shall not apply to any other elected officials prior to the term of office of such elected official which commences on or after July 1, 2000. The provisions of this subsection shall apply to any other elected official on and after the term of office of such other elected official which commences on or after July 1, 2000. Except as otherwise provided, commencing January 8, 2001, the provisions of this subsection shall apply to members of the legislature. For determination of the amount of compensation paid pursuant to this subsection, for members of the legislature, compensation shall include any amount paid as provided pursuant to subsections (a), (b), (c) and (d) of K.S.A. 46-137a, and amendments thereto, or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding any provision of law to the contrary, when a member of the legislature is paid an amount of compensation of \$15,000 or more, or commencing in calendar year 2006, and all calendar years thereafter, \$20,000 or more in any one calendar year, the member may continue to receive any amount provided in subsections (b) and (d) of K.S.A. 46-137a, and amendments thereto, and still be entitled to receive such member's retirement benefit. Commencing July 1, 2005, the provisions of this subsection shall not apply to retirants who either retired under the provisions of subsection (1), or, if they retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act and are licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in subsection (b) of K.S.A. 76-12a01 or subsection (f) of K.S.A. 38-2302, and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment.

(6) For purposes of this section, any employee of a local governmental unit which has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, which occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the years of credited service requirements contained in this section.";

And by renumbering the remaining sections accordingly;

On page 4, in line 21, after "Supp." by inserting "74-4914 and"; also in line 21, by striking "is" and inserting "are"; in line 23, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, in line 10, by striking "po-"; in line 11, by striking all before "retirement" and inserting "public employees"; also in line 11, after "system" by inserting "and systems thereunder; employment after retirement, retirants employed by third-party entities"; in line 12, after "Supp." by inserting "74-4914 and"; also in line 12, by striking "section" and inserting "sections";

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

JOHN VRATIL CAROLYN MCGINN LAURA KELLY Conferees on part of Senate SHARON SCHWARTZ

CLARK SHULTZ GERALDINE FLAHARTY Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **S Sub for HB 2072**.

On roll call, the vote was: Yeas 37, Nays 1, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Navs: Huelskamp.

Absent or Not Voting: Brungardt, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2162**, submits the following report:

The Senate recedes from all of its amendments to the bill;

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

JIM BARNETT VICKI SCHMIDT LAURA KELLY Conferees on part of Senate

BRENDA LANDWEHR DAVID CRUM GERALDINE FLAHARTY Conferees on part of House

Senator Barnett moved the Senate adopt the Conference Committee Report on ${\bf HB}$ 2162.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Brungardt, Wysong.

The Conference Committee report was adopted.

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on Senate Substitute for Substitute HB 2014.

The House not adopts the conference committee report on **HB 2158**, requests a conference and appoints Representatives Huebert, Schwab and Sawyer as second conferees on the part of the House.

The House concurs in Senate amendments to HB 2324 and requests return of the bill.

The House concurs in Senate amendments to **HB 2155**, and requests return of the bill. Announcing passage of **HB 2374**, **HB 2388**; **HCR 5020**, **HCR 5021**.

Also, passage of SB 218, as amended by House Substitute for SB 218.

The House adopts the conference committee report on SB 160.

The House not adopts the conference committee report on **SB 171**, requests a conference and appoints Representatives Huebert, Schwab and Sawyer as third conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2374, HB 2388; HCR 5020, HCR 5021 were thereupon introduced and read by title.

REFERENCE OF HOUSE BILLS

The President referred HCR 5020, HCR 5021 to the Committee of the Whole.

COMMITTEE OF THE WHOLE

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

On motion of Senator D. Schmidt, **HCR 5020** was advanced on the calendar under the heading of General Orders to the first order of business.

On motion of Senator D. Schmidt, **HCR 5021** was advanced on the calendar under the heading of General Orders to the first order of business.

On motion of Senator Apple the following report was adopted:

HCR 5020, HCR 5021 be adopted.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and HCR 5020, HCR 5021 were advanced to Final Action and roll call.

HCR 5020, A concurrent resolution designating the fourth Saturday in July as National Day of the Cowboy.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Brungardt, Wysong.

The resolution was adopted.

HCR 5021, A concurrent resolution recognizing the contributions of the Kansas Cowboy Hall of Fame.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Brungardt, Wysong.

The resolution was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 160**, 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 2, by striking all in lines 8 through 15; in line 16, by striking "(d)" and inserting "(c)"; in line 17, by striking "section 6 of the"; by striking all in line 18; in line 19, by striking all before "and" and inserting "the federal fair labor standards act (29 U.S.C.A. 201 et seq.)"; by striking all in lines 21 through 29;

And by renumbering sections accordingly;

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

STEVEN R. BRUNK JOHN C. GRANGE LOUIS E. RUIZ Conferees on part of House

DAVID WYSONG JULIA LYNN TOM HOLLAND Conferees on part of Senate

Senator Lynn moved the Senate adopt the Conference Committee Report on **SB 160**. On roll call, the vote was: Yeas 33, Nays 5, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Brownlee, Huelskamp, Marshall, Pilcher-Cook, Pyle.

Absent or Not Voting: Brungardt, Wysong.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **SB 160.** We are not raising the minimum wage; the federal government has already done this. The few exceptions in Kansas which might have a lower wage are likely due to the current federal exceptions to the minimum wage.

The average Kansas wage in 2007 was \$17.55/hr. Our vote today does not increase this wage. The workers, employers and free market forces of Kansas increase wages.—KARIN BROWNLEE

Senator Masterson requests the record to show he concurs with the "Explanation of Vote" offered by Senator Brownlee on **SB 160**.

MR. PRESIDENT: As a co-sponsor of **SB 160** I'd like to thank Senators Francisco and Kelsey for their hard work.

I vote yes on **SB 160** with great pride. For too long, we have failed to protect the people at the bottom of the pyramid. Now we have assured them a living wage. I am especially proud that we worked on this together and that it has broad support. Any legislation that passes here in this building passes with the votes of bipartisanship, so I think we can all take credit for raising the minimum wage in the state of Kansas and bringing ourselves into line with adjoining states.—OLETHA FAUST-GOUDEAU

MR. PRESIDENT: I vote yes on **Senate Bill 160**, the Kansas Minimum Wage Bill. Led by bipartisan efforts in the Senate, **SB 160** will increase Kansas' dismal \$2.65 per hour minimum wage to \$7.25 per hour on January 1st, 2010.

Kansas' minimum wage is currently the lowest in the nation—so low that it allows employers to legally pay a rate that keeps people in poverty. According to the Department of Labor, there were at least 17,000 Kansas workers last year who earned the state minimum wage. Many of these Kansans are working multiple jobs in a tough economy just to provide food and shelter for their families. Kansas' minimum hourly wage reflects how our state values the work efforts of its citizens. After remaining stagnant for more than 20 years, this wage increase will show the nation that we value Kansas workers enough to provide them with a liveable wage.

Senate Bill 160 is a significant victory for hardworking Kansans across our great state.— ANTHONY HENSLEY

Senators Holland, Kelly and Kultala request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **Senate Bill 160.**

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Taddiken moved the Senate concur in house amendments to **H Sub for SB 218**. In accordance with Rule 26, Senator Hensley made a motion to postpone to day certain, Wednesday, April 29, 2009. The motion failed.

Citing Rule 29, and joined by the required five senators, Senator Vratil moved the previous question. The motion carried.

H Sub for SB 218, An act concerning abortion; regarding restrictions on late term and partial birth abortion; amending K.S.A. 65-445, 65-6701, 65-6703, 65-6709, as amended by section 1 of 2009 House Substitute for Senate Bill No. 238 and 65-6721 and K.S.A. 2008 Supp. 65-2836 and repealing the existing sections; also repealing K.S.A. 65-6713.

On roll call, the vote was: Yeas 25, Nays 11, Present and Passing 2, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Taddiken, Umbarger, Wagle.

Nays: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Schmidt V, Schodorf, Steineger, Vratil.

Present and Passing: Emler, Teichman. Absent or Not Voting: Brungardt, Wysong. The Senate concurred.

EXPLANATION OF VOTE

MR. PRESIDENT: I believe **House Substitute for SB 218** is a flawed product that may have serious issues which will lead to protracted litigation. We could and should have produced a better product. Late term abortion is an abomination that we should not tolerate. I hope a constitutional challenge to this bill will not abrogate much needed legislation.— JAY SCOTT EMLER

MR. PRESIDENT: I vote "No" on **H Sub for SB 218.** Whether "pro-choice" or "pro-life," you can not respect the process of leaving completely unanswered questions to such sweeping changes in medical definitions and to our current laws. Where is this Senate's accountability to <u>reason</u>? Are we, as a majority, such a group of ideologists that we toss study and research to hurriedness and to haphazardness? **H Sub for SB 218** is only an effort to add a chilling effect towards a woman's constitutional right to choose during a crisis pregnancy. It is a flawed production as the asked-but-unanswered-questions illuminate. Explaining how sausage is made to my constituents is never easy. Neither will the attempt to explain this new "law." Again, I vote "NO" on **H Sub for SB 218** 1.

MR. PRESIDENT: It is shameful, that certain late-term abortionists continue to flaunt our late-term abortion laws. This bill is very simple—it provides basic medical facts to women and holds these abortionists accountable. To do otherwise, would be a disservice to these women and their families and to the infinite and sacred value of human life.—TIM HUELSKAMP

Senators Brownlee, Lynn, Ostmeyer and Umbarger request the record to show they concur with the "Explanation of Vote" offered by Senator Huelskamp on **H Sub for SB 218**.

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on HB 2052.

ORIGINAL MOTION

On motion of Senator V. Schmidt, the Senate acceded to the request of the House for a conference on **SB 171**.

The President appointed Senators V. Schmidt, Apple and Faust-Goudeau as third conferees on the part of the Senate.

On motion of Senator V. Schmidt, the Senate acceded to the request of the House for a conference on **HB 2158**.

The President appointed Senators V. Schmidt, Apple and Faust-Goudeau as second conferees on the part of the Senate.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Wednesday, April 29, 2009.

Journal of the Senate

FIFTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, April 29, 2009-10:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

As we face some weighty decisions during this hopefully brief session, I am quoting some advice from Your Word according to the Book of Proverbs:

"My son, if you accept my words and store up my commands within you, turning your ear to wisdom and applying your heart to understanding, and if you call out for insight and cry aloud for understanding, and if you look for it as for silver and search for it as for hidden treasure, than you will understand the fear of the Lord and find the knowledge of God.

For the Lord gives wisdom, and from His mouth come knowledge and understanding." (Proverbs 2:1-6)

I also want to include some quotes which I hope You will endorse....

John C. Maxwell: "We hear half of what is being said, listen to half of what we hear, understand half of it, believe half of that, and remember only half of that." John C. Maxwell: "Success is knowing your purpose in life, Growing to your maximum potential, and Sowing seeds that benefit others."

Harry S. Truman: "Progress occurs when courageous, skillful leaders seize the opportunity to change things for the better."

John C. Maxwell: "As a leader, if I try to please everybody, eventually I will alienate everybody."

Fred Hollomon: "Listen to the wise, pray for the ignorant."

I pray in the Name of Jesus Christ.

AMEN

All the quotes except the Bible and mine were copied from *Leadership Bold* authored by John C. Maxwell.

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 332, An act concerning annexation; relating to lands located within the territory of a rural water district; repealing K.S.A. 12-527, by Committee on Ways and Means.

SB 333, An act concerning the Kansas parole board; authorizing charging fees for applications for pardon, commutation of sentence and early release; creating the Kansas parole board fee fund; amending K.S.A. 22-3701 and 22-3722 and repealing the existing sections, by Committee on Ways and Means.

SB 334, An act concerning taxation; relating to estate tax rates; franchise tax rates; amending K.S.A. 2008 Supp. 79-15,203, 79-15,251, 79-15,253 and 79-5401 and repealing the existing sections, by Committee on Ways and Means.

SB 335, An act concerning taxation; relating to income taxation; deductions; determination of Kansas adjusted gross income; credits; amending K.S.A. 2008 Supp. 79-32,117, 79-32,120, 79-32,138 and 79-32,205 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 79-32,117m, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2388**. Commerce: **HB 2374**.

CHANGE OF REFERENCE

The President withdrew **HB 2374** from the Committee on **Commerce**, and referred the bill to the Committee on **Ways and Means**.

REPORT ON ENGROSSED BILLS

SB 66 reported correctly engrossed April 6, 2009. Also, SB 102, SB 160 correctly re-engrossed April 6, 2009.

REPORT ON ENROLLED BILLS

SB 45, SB 53, SB 80; H Sub for SB 91; SB 237, SB 275 reported correctly enrolled, properly signed and presented to the Governor on April 6, 2009.

SCR 1610 reported correctly enrolled, properly signed and presented to the Secretary of State on April 8, 2009.

SB 11, SB 19; Sub SB 28; SB 29, SB 35, SB 44, SB 68, SB 87, SB 97; H Sub for SB 98; SB 102, SB 134; H Sub for SB 145; SB 154, SB 158, SB 161, SB 212, SB 225 reported correctly enrolled, properly signed and presented to the Governor on April 10, 2009.

SB 66, SB 160; H Sub for SB 218; H Sub for SB 257 reported correctly enrolled, properly signed and presented to the Governor on April 13, 2009.

MESSAGE FROM THE GOVERNOR

SB 8, SB 16, SB 34, SB 38, SB 108, SB 120, SB 132 approved on April 6, 2009.

SB 1, SB 61, SB 70, SB 78, SB 135, SB 203 approved on April 7, 2009.

SB 64, SB 72, SB 85, SB 163, SB 175, SB 178, SB 228, SB 290 approved on April 8, 2009.

SB 39, SB 45, SB 80, SB 253 approved on April 10, 2009.

SB 9, SB 53, SB 60, SB 237, SB 275; H Sub for SB 91 approved on April 13, 2009.

SB 11, SB 19; Sub SB 28; SB 29, SB 35, SB 102, SB 134; H Sub for SB 98 approved on April 17, 2009.

SB 44, SB 68, SB 87, SB 97, SB 154, SB 158, SB 161, SB 212; SB 225; H Sub for SB 145 approved on April 20, 2009.

SB 66, SB 160; H Sub for SB 257 approved on April 23, 2009.

MESSAGE FROM THE GOVERNOR

For more than a decade, Kansas laws have banned partial birth abortions and post-viability abortions except in those very limited cases where it is necessary to preserve the life or health of a pregnant woman. The United States Supreme Court has consistently held that while states can limit the availability of post-viability abortions, they must allow them where necessary to protect the health or life of the woman.

As Governor of Kansas, I have worked hard to reduce abortions by supporting a range of initiatives including adoption incentives, encouraging parental involvement and individual responsibility for young men and women, expanding health services for Kansas children, promoting access to affordable contraceptives, expanded maternal and infant health services

and promotional efforts, providing funds for proven successful pregnancy maintenance programs and encouraging age-appropriate sex education.

These efforts have resulted in reducing the number of abortions by more than 10% in the last six years in Kansas. I am confident that with a more united effort to reduce the number of unplanned pregnancies, combined with creating conditions that provide support and assistance for mothers and their babies, we will have even greater success reducing abortions in our state.

Unfortunately, House Sub for SB 218 will not help to reduce the number of abortions in Kansas, and would likely be declared unconstitutional. Under the bill, a physician intending to comply with the law could later be criminally prosecuted. A physician acting in good faith to save a pregnant woman's life, and using his or her best medical judgment, should not be subject to later criminal prosecution. Similar language was declared unconstitutional by the United States Court of Appeals for the Sixth Circuit in Womens Medical Professional Corp. v. Voinovich, 130 F.3d 187 (6th Cir. 1997).

The provisions in this bill that would allow for the criminal prosecution of a physician intending to comply with the law will lead to the intimidation of health care providers and reduce access to comprehensive health care for women, even when it is necessary to preserve their lives and health. While I agree that we should try to reduce the number of abortions, it cannot be at the increased risk to the life or health of women. Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto House Substitute for SB 218."

Vetoed: April 23, 2009

KATHLEEN SEBELIUS Governor

COMMUNICATIONS FROM STATE OFFICERS

SENATE PRESIDENT'S OFFICE

April 14, 2009

In accordance with the Senate Confirmation process, President Morris, announced he had received a request from E.J. "Ned" Holland, Jr. to withdraw his nomination for reappointment to the board of directors for the Kansas Health Policy Authority.

STATE OF INDIANA INDIANA GENERAL ASSEMBLY

Senate Resolution 42, urging the honorable Barack Obama, President of the United States, the President of the Senate, the Majority Leader of the Senate, and the Speaker of the House of Representatives of the United States in Congress assembled, and the President of the Senate and Speaker of the House of Representatives of each State's legislature of the United States of America to cease and desist, effective immediately, any and all mandates that are beyond the scope of their constitutionally delegated power, was received.

The President announced the above appointment withdrawal and resolution are on file in the office of the Secretary of the Senate and are available for review at any time.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Holland introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1874-

A RESOLUTION congratulating the Basehor-Linwood boy's basketball program for winning the Class 4A state championship.

WHEREAS, The Basehor-Linwood boys basketball team was crowned class 4A state champions after defeating Girard 53-48 in the championship game; and

WHEREAS, The Bobcats went 22-4 over the season en route to the school's first ever KSHSAA athletic championship and first championship overall since 1989: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we do hereby congratulate team members Tanner Bowers, Justin Gripka, Anthony Pierce, Chandler Schaake, Jake Hattock,

Richie O'Donnell, Clint Schierbaum, Mark Vaca, Evan Theno, Ryan O'Donnell, Colin Murphy and Ryan Murphy, and head coach Mike McBride of the Basehor-Linwood boys basketball team.

Be it further resolved: That five copies of this resolution be furnished to the Basehor-Linwood school district.

On emergency motion of Senator Holland SR 1874 was adopted unanimously.

Senator Holland introduced the following members of the Basehor-Linwood Basketball team: Ryan Murphy, Colin Murphy, Ryan O'Donnell, Evan Theno, Jake Hattock, Richie O'Donnell, Clint Schierbaum, Mark Vaca, Tanner Bowers, Justin Gripka, Anthony Pierce and Chandler Schaake. Also in attendance were Sherry Reeves, principal, Mike McBride, head coach and assistant coaches Chad Harvey and Daniel Hermon.

Senator Morris introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1875-

A RESOLUTION congratulating and commending Marie Clement for being named Ms. Wheelchair Kansas 2009.

WHEREAS, Marie Clement was crowned Ms. Wheelchair Kansas on March 15, 2009 at the culmination of the three-day event at the Capitol Plaza Hotel in Topeka. As Ms. Wheelchair Kansas, Marie Clement will serve as a role model and spokesperson for people with disabilities by appearing at public events and meetings throughout the state; and

WHEREAS, 2009 was the fifth year in which the Ms. Wheelchair Kansas contest was held; and

WHEREAS, The contest seeks to empower participants through enhanced self-awareness and confidence, to educate the public and to advocate for people with disabilities; and

WHEREAS, Marie Clement will advance to the national Ms. Wheelchair America 2010 Program to be held August 24-29, in Rapid City, South Dakota; and

WHEREAS, Marie is married to Robert Clement and has three children; Jason, who is 31 and lives with his wife Liz and children Joseph and Arianna in Palmdale, California; Nick, who is 27 and attends Haskell University in Lawrence and will be interning for the Prairie Band Casino this summer and Chance, who is 11 and lives at home. Marie has lived in the state of Kansas for the past six years and currently resides in Mayetta, where she and her family are members of the Prairie Band Potawatomi Nation; and

WHEREAS, In addition to taking care of her family, Marie loves gardening and planting flowers. She is also an artist and works on projects such as beading, crocheting, creating stained glass art and decoupage; and

WHEREAS, Marie will have the opportunity to travel throughout Kansas educating various groups about the issues of importance to people with disabilities. Marie's goal is to educate others about improving the lives of people with disabilities and to help other people with disabilities broaden their horizons and not feel limited by barriers through her platform of "Greater Mobility through Accessibility": Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Marie Clement for being named Ms. Wheelchair Kansas 2009 and for exhibiting all the strength and character that serve to make her a wonderful role model for all Kansans; and

Be it further resolved: That the Secretary of the Senate provide two enrolled copies of this resolution to Senator Morris for presentation to Marie Clement.

On emergency motion of Senator V. Schmidt SR 1875 was adopted unanimously.

Senator V. Schmidt introduced Marie Clement, Ms. Wheelchair Kansas 2009, along with her family; Robert Clement, husband, Chance Clement, youngest son, Nick Wilder, middle son and Thamar Morris, mother. Also introduced were Amanda Steiner, Ms. Wheelchair Kansas 2008 and Carrie Greenwood, Ms. Wheelchair Kansas 2004.

Jamie Lane was recognized for her volunteer efforts and she presented a framed copy of the resolution to Marie Clement.

Senator V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1876-

A RESOLUTION urging the extension of the influenza vaccination season.

WHEREAS, The most effective strategy for preventing influenza is annual vaccination; and

WHEREAS, According to the Centers for Disease Control, the influenza vaccination rate for fully vaccinated children in Kansas was 19.5% for the 2006-2007 flu season; and

WHEREAS, Beginning with the 2008-2009 influenza season, vaccination of all children aged six months to 18 years is recommended by the Centers for Disease Control and Prevention's (CDC) Advisory Committee on Immunization Practices (ACIP) as well as the American Academy of Pediatrics (AAP); and

WHEREAS, Annual vaccination of all children aged six months through 18 years should begin as soon as vaccine is available in the 2008-2009 influenza season, but should be initiated no later than the 2009-2010 season. Strategies that focus on providing routine vaccination to persons at higher risk for influenza complications have long been recommended, although rates of flu vaccination among the majority of these groups remains low; and

WHEREAS, During the 2007-2008 influenza season there were 87 reported pediatric deaths caused by influenza in the United States. Influenza is the most frequent cause of death for a vaccine-preventable disease in the United States and is responsible for an average of 200,000 hospitalizations each year and an estimated 36,000 deaths, primarily among the elderly; and

WHEREAS, According to the AAP, the ACIP's expanded recommendations target all school-aged children, the population that bears the greatest burden of disease and is at higher risk of needing influenza-related medical care compared with healthy adults. Moreover, the AAP states that reducing influenza transmission among school-aged children will in turn reduce transmission of influenza to household contacts and community members; and

WHEREAS, Influenza vaccine should be offered to all children as soon as vaccine becomes available prior to the start of the season and should continue into March and beyond, as there is often more than one peak in influenza illness during the same season. Thus, the AAP states that vaccination through May 1st can provide protection and increase the window of opportunity for children who need two doses of vaccine; and

WHEREAS, School-based vaccination is an efficient venue for the mass vaccination of school-age children against influenza. Moreover, school-based vaccination programs benefit the communities in which they are conducted by helping reduce transmission of influenza to other members of the community. The potential threat of an influenza pandemic underscores the benefit of building local infrastructure and strengthening community partnerships as a preventive measure to address both seasonal influenza and the event of pandemic: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we urge the extension of the influenza vaccination season, both earlier and later, in order to vaccinate and protect children, adults and especially those in high risk groups; and

Be it further resolved: That we recognize the importance of protecting all Kansans during this influenza season against this dangerous and potentially deadly disease; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Vicki Schmidt.

On emergency motion of Senator V. Schmidt SR 1876 was adopted unanimously.

Senator V. Schmidt introduced Dr. Daniel Reynolds, Katherine Reynolds, wife and sons Ethen and Colby Reynolds. Also in attendance were guests: Scott Brown and Ashley Bailey.

Senator Francisco introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1877-

A RESOLUTION congratulating and commending the University of Kansas debate team.

WHEREAS, Brett Bricker and Nate Johnson of the University of Kansas defeated defending national champion Wake Forest to win the National Debate Tournament championship; and WHEREAS, Bricker and Johnson topped 78 intercollegiate teams competing at the tournament held March 26-31 at the University of Texas-Austin. They defeated California-Berkeley in the semifinal to advance to the championship round; and

WHEREAS, This is KU's fifth national debate title, having previously won in 1954, 1970, 1976 and 1983. KU has had a team in the National Debate Tournament for each of the past 42 years; and

WHEREAS, Brett Bricker, a mathematics major, is the son of Gary and Norma Bricker and a graduate of Wichita High School Southeast. Nate Johnson, who is majoring in philosophy, political science and psychology, is the son of Ron and Betty Johnson and a graduate of Manhattan High School; and

WHEREAS, Led by 18-year Kansas coach and 2006 national coach of the year, head coach Scott Harris, the KU debate team also won two other national tournaments this season; and

WHEREAS, Brothers Patrick and Sean Kennedy, both Leawood sophomores, defeated Georgetown to win first place at the Freshman/Sophomore Nationals, held in East Lansing, Michigan; and

WHEREAS, At the National Junior Division Debate Tournament in Overland Park, two KU teams tied for first place. Patrick Kennedy and Mathew Peterson, Wichita junior, went 12-0 and defeated Kansas State University in the semifinals. Mark Wilkins, Topeka sophomore, and Andrew Jack, Lawrence and Manhattan junior, were 11-1, defeating the University of Minnesota in the other semifinal; and

WHEREAS, Last season, the KU debate team finished the year ranked first in the national varsity rankings; and

WHEREAS, The University of Kansas debate team has demonstrated exemplary abilities in capturing the national debate championship and in continuing the history of excellence in debate at KU: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the University of Kansas debate team for its outstanding achievements this season and that we wish all the team members continued success in their academic endeavors; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Marci Francisco.

On emergency motion of Senator Francisco SR 1877 was adopted unanimously.

Senator Francisco introduced the following members of the KU Honored Debate team: Brett Bricker, Nate Johnson and Chris Stone, debaters; Scott Harris, Head Coach; Sarah Topp, Kelly Winfrey and Athena Murray, assistant coaches. This is KU's Fifth national Debate title.

ORIGINAL MOTION

Having voted on the prevailing side in Final Action on Friday, April 3, 2009, Senator Barnett moved the Senate reconsider its action on **S Sub for HB 2162** and request return of the bill from the House of Representatives. The motion carried.

REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **HB 2373**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2373," as follows:

"SENATE Substitute for HOUSE BILL No. 2373

By Committee on Ways and Means

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012 and June 30, 2013, and June 30, 2014, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2008 Supp. 12-5256, as amended by section 136 of 2009 Senate Substitute for House Bill No. 2354, 76-7,107, as amended by section 139 of 2009 Senate Substitute for House Bill No. 2354, 79-2978, as amended by section 88 of 2009 House Substitute for Substitute for Substitute for Substitute

for Senate Bill No. 23, 79-3425i, as amended by section 144 of 2009 Senate Substitute for House Bill No. 2354, 79-34,156, as amended by section 91 of 2009 House Substitute for Substitute for Senate Bill No. 23, and 79-4801, as amended by section 145 of 2009 Senate Substitute for House Bill No. 2354, and repealing the existing sections; also repealing section 102 of 2009 Senate Substitute for House Bill No. 2354, 79-2978, as amended by section 142 of 2009 Senate Substitute for House Bill No. 2354, and 79-2979, as amended by section 143 of 2009 Senate Substitute for House Bill No. 2354."; and the substitute bill be passed.

On motion of Senator D. Schmidt, the Senate recessed until 4:00 p.m.

AFTERNOON SESSION

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 336, An act reconciling amendments to certain statutes and making certain technical changes related thereto; amending K.S.A. 16a-6-117, as amended by section 23 of 2009 Senate Bill No. 240, 20-3201, 21-3826, as amended by section 1 of 2009 Senate Bill No. 237, and 72-4423, as amended by section 11 of 2009 House Bill No. 2003, and K.S.A. 2008 Supp. 8-126, as amended by section 4 of 2009 Senate Bill No. 275, 8-1567, as amended by section 5 of 2009 Senate Substitute for House Bill No. 2096, 8-2110, as amended by section 1 of 2009 Senate Bill No. 158, 12-5242, 19-101a, 20-367, 22-3716, 25-4156, 25-4169a, 28-172a, as amended by section 15 of 2009 Senate Bill No. 66, 38-2211, 38-2255, as amended by section 6 of 2009 Senate Bill No. 134, 45-221, as amended by section 27 of 2009 House Bill No. 2052, 59-104, as amended by section 19 of 2009 Senate Bill No. 66, 60-1621, as amended by section 22 of 2009 Senate Bill No. 66, 60-2001, as amended by section 23 of 2009 Senate Bill No. 66, 60-4104, as amended by section 1 of 2009 Substitute for Senate Bill No. 28, 61-2704, as amended by section 25 of 2009 Senate Bill No. 66, 61-4001, as amended by section 26 of 2009 Senate Bill No. 66, 65-1643, 65-2878, 66-2005, 72-6448, 75-7c04, as amended by section 2 of 2009 House Bill No. 2308, 75-7427, 76-3110, 79-213, 79-5a27 and 79-32,117 and section 16 of 2009 House Bill No. 2236 and repealing the existing sections; also repealing K.S.A. 20-3201, as amended by section 1 of 2009 House Bill No. 2111, 21-3826, as amended by section 27 of 2009 House Bill No. 2236, 65-4142, as amended by section 1 of 2009 House Bill No. 2059, and 76-3110, as amended by section 36 of chapter 145 of the 2004 Session Laws of Kansas, and K.S.A. 2008 Supp. 8-126, as amended by section 4 of 2009 House Bill No. 2152, 8-1567, as amended by section 19 of 2009 House Bill No. 2236, 8-2110, as amended by section 3 of 2009 Senate Bill No. 66, 12-1773a, 12-5242a, 12-5242b, 19-101m, 20-376, as amended by section 2 of 2009 House Bill No. 2111, 22-3716a, 25-4156a, 25-4169b, 28-172a, as amended by section 3 of 2009 House Bill No. 2111, 38-2211a, 38-2255, as amended by section 47 of 2009 House Bill No. 2236, 39-756d, 45-221, as amended by section 2 of 2009 Senate Bill No. 87, 45-229b, 59-104, as amended by section 4 of 2009 House Bill No. 2111, 60-1621, as amended by section 5 of 2009 House Bill No. 2111, 60-2001, as amended by section 6 of 2009 House Bill No. 2111, 60-2102a, 60-2403a, 60-4104, as amended by section 51 of 2009 House Bill No. 2236, 61-2704, as amended by section 7 of 2009 House Bill No. 2111, 61-3003a, 61-4001, as amended by section 8 of 2009 House Bill No. 2111, 65-1643b, 65-2878b, 66-2005a, 72-6433c, 72-6448, as amended by section 1 of 2009 House Bill No. 2002, 75-7c04, as amended by section 60 of 2009 House Bill No. 2236, 75-7427a, 79-213e, 79-5a27a and 79-32,117m and section 1 of 2009 Senate Substitute for House Bill No. 2126, by Committee on Ways and Means.

SB 337, An act concerning taxation; relating to amnesty from assessment or payment of penalties and interest on certain unpaid taxes; procedures and requirements of program, by Committee on Ways and Means.

SB 338, An act concerning taxation; relating to tax on privilege of selling alcoholic liquor; distribution of revenue; local alcoholic liquor fund; amending K.S.A. 79-41a04 and K.S.A. 2008 Supp. 79-41a03 and repealing the existing sections, by Committee on Ways and Means.

CHANGE OF REFERENCE

The President withdrew **SB 267** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on **Ethics and Elections**.

The President withdrew **HB 2079** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on **Assessment and Taxation**.

The President withdrew **HB 2099** from the Committee on **Judiciary**, and referred the bill to the Committee on **Federal and State Affairs**.

COMMUNICATIONS FROM STATE OFFICERS

SPEAKER

HOUSE OF REPRESENTATIVES

July 30, 2008

In accordance with KSA 2007 Supp. 75-7401, Melvin Neufeld, Speaker, House of Representatives, announced the appointment of Kenneth Daniel to the Kansas Health Policy Authority for a term of four years, which will expire March 15, 2012.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

REPORT ON ENROLLED BILLS

SR 1874, SR 1875, SR 1876 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 29, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** begs leave to submit the following report: The following appointments were referred to and considered by the committee and your

committee recommends that the Senate approve and consent to such appointments: By the Governor:

Kansas Human Rights Commission: K.S.A. 44-1003

Jeffrey E. Lewis, term expires January 15, 2012

Brigadier General, Kansas National Guard: K.S.A. 2008 Supp. 48-203

Colonel Alexander Duckworth, serves at the pleasure of the Governor

Committee on Ways and Means recommends SCR 1616 be adopted.

Also, **HB 2374**, as amended by House Committee, be amended on page 18, in line 7, after "skills" by inserting ", including a job training program authorized under the federal workforce investment act of 1998,";

On page 33, before line 6, by inserting:

"Sec. 2. K.S.A. 2008 Supp. 44-704c is hereby amended to read as follows: 44-704c. (*a*) Two weeks of additional benefits shall be payable to claimants who exhaust regular benefits and any benefits under any other federal or state extended benefits program during the period July 1, 2003 through June 30, 2004. The benefit eligibility and disqualification provisions of K.S.A. 44-705 and 44-706, and amendments thereto, shall apply to the additional benefits program.

(b) A claimant who exhausts regular benefits and who is enrolled in an approved training program under subsection (s) of K.S.A. 44-703, and amendments thereto, and making successful progress in such program, shall be eligible for up to 26 weeks of additional benefits.

Sec. 3. K.S.A. 2008 Supp. 44-705 is hereby amended to read as follows: 44-705. Except as provided by K.S.A. 44-757 and amendments thereto, an unemployed individual shall be eligible to receive benefits with respect to any week only if the secretary, or a person or persons designated by the secretary, finds that:

(a) The claimant has registered for work at and thereafter continued to report at an employment office in accordance with rules and regulations adopted by the secretary, except that, subject to the provisions of subsection (a) of K.S.A. 44-704 and amendments thereto,

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the secretary may adopt rules and regulations which waive or alter either or both of the requirements of this subsection (a).

(b) The claimant has made a claim for benefits with respect to such week in accordance with rules and regulations adopted by the secretary.

(c) The claimant is able to perform the duties of such claimant's customary occupation or the duties of other occupations for which the claimant is reasonably fitted by training or experience, and is available for work, as demonstrated by the claimant's pursuit of the full course of action most reasonably calculated to result in the claimant's reemployment except that, notwithstanding any other provisions of this section, an unemployed claimant otherwise eligible for benefits shall not become ineligible for benefits: (1) Because of the claimant's enrollment in and satisfactory pursuit of approved training, including training approved under section 236(a)(1) of the trade act of 1974 or (2) solely because such individual is seeking only part-time employment if the individual is available for a number of hours per week that are comparable to the individual's part-time work experience in the base period.

For the purposes of this subsection, an inmate of a custodial or correctional institution shall be deemed to be unavailable for work and not eligible to receive unemployment compensation while incarcerated.

(d) (1) Except as provided further, the claimant has been unemployed for a waiting period of one week or the claimant is unemployed and has satisfied the requirement for a waiting period of one week under the shared work unemployment compensation program as provided in subsection (k)(4) of K.S.A. 44-757 and amendments thereto, which period of one week, in either case, occurs within the benefit year which includes the week for which the claimant is claiming benefits. No week shall be counted as a week of unemployment for the purposes of this subsection (d):

(A) If benefits have been paid for such week;

 $\left(B\right)$ if the individual fails to meet with the other eligibility requirements of this section; or

(C) if an individual is seeking unemployment benefits under the unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such state or of the United States finally determines that the claimant is not entitled to unemployment benefits under such other law, this subsection (d)(1)(C) shall not apply.

(2) The waiting week requirement of paragraph (1) shall not apply to new claims, filed on or after July 1, 2007, by claimants who become unemployed as a result of an employer terminating business operations within this state, declaring bankruptcy or initiating a work force reduction pursuant to public law 100-379, the federal worker adjustment and retraining notification act (29 U.S.C. 2101 through 2109), as amended. The secretary shall adopt rules and regulations to administer the provisions of this paragraph.

(3) A claimant shall become eligible to receive compensation for the waiting period of one week, pursuant to paragraph (1), upon completion of three weeks of unemployment consecutive to such waiting period.

(e) For benefit years established on and after the effective date of this act, the claimant has been paid total wages for insured work in the claimant's base period of not less than 30 times the claimant's weekly benefit amount and has been paid wages in more than one quarter of the claimant's base period, except that the wage credits of an individual earned during the period commencing with the end of a prior base period and ending on the date on which such individual filed a valid initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has returned to work and subsequently earned wages for insured work in an amount equal to at least eight times the claimant's current weekly benefit amount.

(f) The claimant participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and needs reemployment services pursuant to a profiling system established by the secretary, unless the secretary determines that: (1) The individual has completed such services; or (2) there is justifiable cause for the claimant's failure to participate in such services.

(g) The claimant is returning to work after a qualifying injury and has been paid total wages for insured work in the claimant's alternative base period of not less than 30 times

the claimant's weekly benefit amount and has been paid wages in more than one quarter of the claimant's alternative base period if:

(1) The claimant has filed for benefits within four weeks of being released to return to work by a licensed and practicing health care provider.

(2) The claimant files for benefits within 24 months of the date the qualifying injury occurred.

(3) The claimant attempted to return to work with the employer where the qualifying injury occurred, but the individual's regular work or comparable and suitable work was not available.";

And by renumbering the remaining sections accordingly;

Also on page 33, in line 6, by striking "is" and inserting ", 44-704c and 44-705 are";

In the title, in line 11, by striking all after "periods"; in line 12, by striking all before the semicolon and inserting ", approved job training and part-time employees' eligibility for benefits"; in line 13, before "and" by inserting ", 44-704c and 44-705"; also in line 13, by striking "section" and inserting "sections"; and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Thursday, April 30, 2009.

Journal of the Senate

FIFTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, April 30, 2009—10:00 a.m.

The Senate was called to order by Vice President John Vratil. The roll was called with forty senators present.

Vice President Vratil introduced as guest chaplain, Rev. Ben Sauceda, Associate Pastor, Temple Baptist Church, Wichita, Kansas, who delivered the invocation:

Dear Heavenly Father,

Thank you for all your goodness and blessings to us. We, indeed as a country and state, have been blessed greatly by You! Today we thank you for that. We also come in need of your help. With many challenges and choices that face this governing body, I ask God that you would guide them, direct them, and give them wisdom to make choices that would be pleasing to You. Your Word tells us that we must be dependent upon You, and Lord, we come asking for the strength to depend upon you. We love you, and thank you for your goodness, and ask that You will bless all that's done in this chamber today, in Your Son's Holy Name.

Amen

The Pledge of Allegiance was led by Vice President Vratil.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated: Assessment and Taxation: **SB 334, SB 335, SB 337, SB 338**. Committee of the Whole: **SB 336**. Natural Resources: **SB 332**. Ways and Means: **SB 333**.

REFERRAL OF APPOINTMENTS

The following appointment made by the Speaker of the House of Representatives and submitted to the senate for confirmation, was referred to Committee as indicated:

Kansas Health Policy Authority, Kenneth L. Daniel, Jr., term expires March 15, 2012. (Public Health and Welfare)

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Holland and D. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1878-

A RESOLUTION in memory of Senator James B. Pearson.

WHEREAS, Former Kansas and United States Senator James B. Pearson passed away on January 13, 2009 in his home in Gloucester, Massachusetts; and

WHEREAS, Senator Pearson served the people of Kansas as state senator from 1956 to 1960, chairman of the Kansas GOP in 1960, and United States Senator from 1962 to 1978,

during which time he served notably on the commerce committee and the foreign relations committee; and

WHEREAS, Among Senator Pearson's greatest accomplishments were his successful efforts to deregulate the natural gas industry, champion the rights of farmers and ranchers, and improve the agriculture and aviation industries in Kansas; and

WHEREAS, Senator Pearson was born in Nashville, Tennessee on May 7, 1920. In 1934 he moved with his family to Virginia, and Pearson later attended Duke University in Durham, North Carolina. He left school to serve in the United States Navy as a pilot during World War II, and from 1943 to 1946 he flew DC3 transport carriers across the country. While stationed at Olathe Naval Air Station he met his first wife, Martha Mitchell. In 1950 Senator Pearson graduated from the University of Virginia School of Law, and then began his first law practice in Mission, Kansas. He served as Assistant County Attorney of Johnson County from 1952 to 1954 and County Probate Judge from 1954 to 1956 before being elected to his first term as Kansas State Senator in 1956. In 1960 he led John Anderson's successful campaign for Governor and was named chairman of the GOP. In 1962 Governor Anderson appointed Pearson to the United States Senate to replace the vacancy left by deceased Senator Andrew Schoeppel. Senator Pearson was subsequently reelected twice and served as a delegate to the United Nations until he retired from the Senate in 1978. Upon his retirement he moved to Baldwin City where he lived and farmed part-time. In 1980 he married his second wife, Margaret Lynch, and the two traveled extensively between the United States, Japan, and Southeast Asia. Senator Pearson spent the remainder of his years in Baldwin City and Gloucester, Massachusetts, where Senator Pearson read voraciously and ably painted Kansas landscapes in watercolor; and

WHEREAS, Senator Pearson served on the Baker University Board of Trustees, donated his papers to the University of Kansas, and was interested in the progress of Haskell Indian Nations University; and

WHEREAS, A United States government program with his namesake offers Foreign Service workers a chance to work in other branches of government in order to learn about domestic politics, and the James B. Pearson Fellowship allows graduates of Kansas public universities opportunities to study abroad; and

WHEREAS, The post office in his hometown of Prairie Village was named the James B. Pearson Post Office in 2004; and

WHEREAS, Senator Pearson is survived by his wife Margaret, his sons James, Thomas and William, his daughter Laura, and his sister Virginia: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor James Pearson for his years of dedicated service to the government and people of Kansas and the United States and that we extend our deepest sympathies to his family, friends, constituents and admirers; and

Be it further resolved: That the Secretary of the Senate be directed to provide five enrolled copies of this resolution to Baker University.

On emergency motion of Senator Holland SR 1878 was adopted unanimously.

Senator Holland introduced Margaret Pearson, wife of Senator James B. Pearson. Also in attendance was guest Dr. Daniel Lambert, accompanying Margaret Pearson.

Senator Morris introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1879-

A RESOLUTION congratulating and commending Shalee Lehning.

WHEREAS, On April 9, 2009, Kansas State guard Shalee Lehning was drafted by the Atlanta Dream as the 25th overall selection in the 2009 WNBA Draft; and

WHEREAS, Shalee Lehning's selection in the WNBA Draft marked the sixth time a Kansas State player had been selected; and

WHEREAS, Shalee Lehning was born October 27, 1986 in Liberal, Kansas to Steve and Jane Lehning; and

WHEREAS, Shalee's outstanding basketball career at Sublette High School includes holding school records in scoring, rebounding, assists and steals; being the 4th all-time leading scorer in Kansas high school history; being named a Wendy's High School Heisman Award State Finalist; 2005 Gatorade Player of the Year for Kansas; and 2005 Miss Kansas Basketball; and

WHEREAS, Shalee Lehning's remarkable success continued at Kansas State University. For the 2008-2009 season, she was an Associated Press All-America honorable mention and was named to the Lowe's All-Senior All-America first team. She also received her second selection to the All-Big 12 first team and her third straight Academic All-Big 12 first team citation. In addition, Shalee was a candidate for the Wade Trophy, a State Farm/WBCA All-America finalist, a Naismith Trophy finalist, a Wooden Award finalist, a Lieberman Award finalist and a Lowe's Senior CLASS Award finalist; and

WHEREAS, Shalee finished her senior season as the Wildcats' third-leading scorer averaging 10.7 points per game, the team's top rebounder at 7.0 per game and the Big 12 leader and second in the nation in assists per game at 7.6 per contest. Her 229 assists this season set a school record for assists in a season and set the Big 12 record for assists by a senior. She finished her career ranked first in Kansas State University history and second in Big 12 history with 800 career assists; and

WHEREAS, Shalee Lehning's contributions on and off the floor have made her a wonderful role model for all young athletes: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Shalee Lehning for her outstanding achievements and that we wish her personal and professional success with her new team, the Atlanta Dream; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Stephen Morris for presentation and an additional enrolled copy to be sent to Kansas State University, Bramlage Coliseum, 1800 College Ave., Manhattan, KS 66502.

On emergency motion of Senator Morris SR 1879 was adopted unanimously.

Senator Morris introduced Shalee Lehning and congratulated her on her basketball accomplishments. Deb Patterson, coach and Sue Petersen were also guests in attendance.

Senator Umbarger introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1880-

A RESOLUTION congratulating and commending Ron Wood for his many years of community service and volunteer efforts in the Chetopa area and beyond.

WHEREAS, Ron Wood has tirelessly and skillfully worked in the United States Postal Service for 31 years, during which time he has served as a Postmaster trainer, transfer officer, and President of the southeast-central chapter of the National Association of Postmasters. For 24 years he served as the Chetopa Postmaster until his recent retirement; and

WHEREAS, Mr. Wood has a long and distinguished record of community service and leadership, including: 6 years as a councilman in Elk City, past President of the Chetopa Chamber of Commerce, 14 years as a Chetopa volunteer fireman, and 12 years on the Chetopa school board. He has been a member of the Chetopa task force, housing committee and booster club. He has also proudly served as announcer at Chetopa football games for the past 8 seasons; and

WHEREAS, Mr. Wood has been a strong member of the Masonic Lodge, the Knights of Columbus and the Marine Corp. League: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we do hereby commend and congratulate Ron Wood, his wife Bonnie, son Beau and daughter Ty, for his distinguished service in the United States Post Office and in his community; and

Be it further resolved: That the Secretary of the Senate be directed to provide four enrolled copies to Senator Dwayne Umbarger and that an additional copy be sent to Ron Wood at 401 Oak, Chetopa, KS 67336.

On emergency motion of Senator Umbarger SR 1880 was adopted unanimously.

Senator Umbarger introduced Ron Wood for his community service and volunteer efforts. Also in attendance were guests William P. Buckley, Charles P. Thompson and Charles B. Fritz.

Senators Brownlee, Colyer and Lynn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1881-

A RESOLUTION congratulating and commending Lucas Vincent and Chaz Lawrence.

WHEREAS, Olathe North junior Lucas Vincent won the Wrestling State Championship, for the 285 pound weight class, with an 11-4 victory; and

WHEREAS, The state title was the first for Vincent after finishing second as a sophomore; and

WHEREAS, Lucas Vincent will not wrestle as a senior so as to focus on his dream of playing NCAA Division I football; and

WHEREAS, Olathe South senior Chaz Lawrence won the Wrestling State Championship, for the 125 pound weight class, with an exciting 4-2 overtime victory; and

WHEREAS, This state title was particularly satisfying after fourth place finishes in his sophomore and junior years; and

WHEREAS, In capturing the championship, Chaz finished with a sterling record of 46-1 for the season; and

WHEREAS, The accomplishments of these two athletes in a sport as physically demanding as wrestling indicates their high level of commitment and hard work: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Lucas Vincent and Chaz Lawrence on their outstanding seasons and that we wish them success in their future endeavors; and

Be it further resolved: That the Secretary of the Senate be directed to provide four enrolled copies of this resolution to Senator Karin Brownlee.

On emergency motion of Senator Brownlee SR 1881 was adopted unanimously.

Senator Brownlee introduced Lucas Vincent for his wrestling accomplishments. Also in attendance was his coach and, Lucas' parents, Mr. and Mrs. Vincent.

Senators Brownlee, Colyer and Lynn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1882-

A RESOLUTION congratulating and commending Clark Thomas.

WHEREAS, Clark Thomas of Olathe Northwest won the 6A Kansas Diving Championship with a total score of 468.95, a full 28 points higher than second place; and

WHEREAS, Clark Thomas also won the Sunflower League Title during his undefeated season; and

WHEREAS, Thomas' accomplishments are particularly impressive because he is only in the 9th grade and is the first freshman at Olathe Northwest to win a state championship; and

WHEREAS, Clark Thomas also excels outside of the pool, with forensics and debate being two key interests of his; and

WHEREAS, The accomplishments of Clark Thomas at such an early age reflect his determination and drive for excellence: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Clark Thomas for his outstanding accomplishments and that we wish him continued success; and

Be it further resolved: That the Secretary of the Senate be directed to provide two enrolled copies of this resolution to Senator Karin Brownlee.

On emergency motion of Senator Brownlee SR 1882 was adopted unanimously.

Senator Brownlee introduced Clark Thomas for his 6A Kansas Diving Championship.

Senators Brownlee, Colyer and Lynn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1883-

A RESOLUTION congratulating and commending

the Olathe East High School boys swimming team.

WHEREAS, The Olathe East High School boys swimming team won its first team Swimming State Championship with 325 points; and

April 30, 2009

WHEREAS, The Olathe East Hawks significantly outscored the competition in winning the 2009 State Championship with second place Blue Valley North scoring 274 points; and

WHEREAS, The Hawks relay team of sophomore Ben Scheffler, senior Cris Smith, freshman Ben Bravence and senior Joe Knight won the 400 meter freestyle relay with a time of 3:10.47 minutes; and

WHEREAS, Ben Scheffler also won the 100 meter backstroke with a time of 51.47 seconds; and

WHEREAS, Senior Austin Acheson of Olathe East won the 500 meter freestyle with a Kansas State Meet record of 4:35.02 minutes and was named the Athlete of the Meet; and

WHEREAS, The Olathe East team was expertly led by Head Coach Dave Youker; and WHEREAS, The individual and team accomplishments of the Olathe East Hawks indi-

cate the high level of commitment and excellence of these young athletes: Now, therefore, *Be it resolved by the Senate of the State of Kansas*: That we congratulate and commend

the Olathe East High School boys swimming team for winning its first team Swimming State Championship and that we wish them all continued success; and

Be it further resolved: That the Secretary of the Senate be directed to provide 23 enrolled copies of this resolution to Senator Karin Brownlee.

On emergency motion of Senator Brownlee SR 1883 was adopted unanimously.

Senator Brownlee introduced the Olathe East High School boys swimming team and Head Coach Dave Youker.

Senator Brownlee introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1884-

A RESOLUTION congratulating the Olathe South High School boys soccer team.

WHEREAS, The Olathe South Falcons defeated rival Olathe East 1-0 on a goal by Junior Trey Bristow in winning their second state championship in school history; and

WHEREAS, The Olathe South Falcons soccer team finished the season 17-3-1 to finish the season ranked 16th nationally; and

WHEREAS, The Falcons were lead by their stout defense and goalkeeper Tanner Fox who recorded 11 shutout wins, including all five post-season victories; and

WHEREAS, During the season, the Falcons beat Oak Park, Missouri, which was ranked first in the Kansas City Metro area; nationally ranked St. Thomas Aquinas; Washburn Rural, which was ranked first in central Kansas; Maize, which was ranked first in southeast Kansas; and Olathe East, which was ranked first in northeast Kansas; and

WHEREAS, Senior captain Ethan Bauer was the Kansas Gatorade Player of the Year and was named to the Adidas/National Soccer Coaches Association of America (NSCAA) All-America Team; and

WHEREAS, Coach Will Stoskopf, whose direction helped guide the team to the championship, was named the NSCAA Kansas Coach of the Year; and

WHEREAS, Six seniors on the Falcons will continue their soccer careers at the collegiate level next year; and

WHEREAS, Considering the incredibly high level of competition the Olathe South Falcons faced, this season's accomplishments are truly impressive: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Olathe South High School boys soccer team for an outstanding season and that we wish them all continued success; and

Be it further resolved: That the Secretary of the Senate be directed to provide ten enrolled copies of this resolution to Senator Karin Brownlee.

On emergency motion of Senator Brownlee SR 1884 was adopted unanimously.

Senator Brownlee introduced the Olathe South High School boys soccer team and coach Will Stoskopf.

Senators Brownlee, Colyer and Lynn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1885-

A RESOLUTION congratulating and commending the Olathe East High School girls gymnastics team.

WHEREAS, The Olathe East High School girls gymnastics team won its second consecutive state championship with a team score of 106.350; and

WHEREAS, Senior Annie Pauls helped win the team championship by winning the All-Around title with a score of 36.5. In addition to winning the Sunflower League All-Around title during the season and qualifying for the State Tournament all four years of her high school career, Annie was named the All-Metro Gymnast of the Year for 2009; and

WHEREAS, Beth Copeland also turned in a masterful performance, winning the individual state championship in the floor exercise and finishing in second in the All-Around competition; and

WHEREAS, The Olathe East team was expertly led to this state championship by Coach Lydia Messenger; and

WHEREAS, The hard-work and dedication that is required to win the Gymnastics State Championship makes the team members' contributions truly remarkable: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Olathe East High School gymnastics team for winning its second consecutive state championship and that we wish them continued success; and

Be it further resolved: That the Secretary of the Senate be directed to provide five enrolled copies of this resolution to Senator Karin Brownlee.

On emergency motion of Senator Brownlee SR 1885 was adopted unanimously.

REPORT ON ENROLLED BILLS

SR 1877, SR 1878, SR 1879, SR 1880 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 30, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Ways and Means begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments: By the Governor:

Kansas Public Employees' Retirement Board of Trustees: K.S.A. 74-4905 Michael Braude, term expires January 15, 2013 Bachel Brihan term emires January 15, 2012

Rachel Reiber, term expires January 15, 2013

On motion of Senator D. Schmidt, the Senate recessed until 3:00 p.m.

AFTERNOON SESSION

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

COMMUNICATIONS FROM STATE OFFICERS

KANSAS DEPARTMENT OF CORRECTIONS

April 30, 2009

In accordance with the provisions of KSA 60-4117, Roger Werholtz, Secretary of Corrections, submitted the report of the Kansas Department of Corrections State Forfeiture Fund for the period of December 1, 2007 through December 1, 2008.

The Vice President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of **HCR 5023**, a concurrent resolution providing for joint session of the Senate and House of Representatives for the purpose of hearing a message from the Governor, and the appointment of Representatives Mast, Horst and Ward to escort the Governor, Representatives Shultz, Light and McCray-Miller to escort the Supreme Court; and Representative Aurand, Bethell and Williams to escort the Senators.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HCR 5023 was thereupon introduced and read by title.

On emergency motion of Senator D. Schmidt, **HCR 5023** was adopted by voice vote. In compliance with **HCR 5023**, Vice President Vratil appointed Senators Teichman and Kelly to escort the Governor: Senators Barnett and Franciso to escort the Supreme Court.

MESSAGE FROM THE HOUSE

The House not adopts the conference committee report on **HB 2060**, requests a conference and appoints representatives Colloton, Patton and McCray-Miller as second conference on the part of the House.

ORIGINAL MOTION

On motion of Senator Owens, the Senate acceded to the request of the House for a conference on **HB 2060**.

The Vice President appointed Senators Owens, D. Schmidt and Haley as second conferees on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **HB 2099**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2099," as follows:

"SENATE Substitute for HOUSE BILL No. 2099

By Committee on Federal and State Affairs

"AN ACT concerning open records; amending K.S.A. 2008 Supp. 45-221, as amended by section 27 of 2009 House Bill No. 2052 and repealing the existing section; also repealing K.S.A. 2008 Supp. 45-221, as amended by section 2 of 2009 Senate Bill No. 87."; and the substitute bill be passed.

Committee on **Public Health and Welfare** begs leave to submit the following report: The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Speaker of the House of Representatives:

Kansas Health Policy Authority: K.S.A. 2008 Supp. 75-7401

Kenneth L. Daniel, Jr., term expires March 15, 2012

Committee on **Ways and Means** recommends **SB 311** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 311," as follows:

"Substitute for SENATE BILL No. 311

By Committee on Ways and Means

"AN ACT concerning the state budget; state general fund and special revenue fund expenditures, transfers and ending balance requirements; reduction and allotment procedures; amending K.S.A. 75-3722 and 75-6704 and repealing the existing sections."; and the substitute bill be passed.

Vice President Vratil announced the Senate would gather at 3:40 p.m. to go to the House of Representatives to hear a message from Governor Mark Parkinson.

On motion of Senator D. Schmidt the Senate adjourned until 9:00 a.m., Friday, May 1, 2009.

Journal of the Senate

FIFTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Friday, May 1, 2009—9:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Each of the forty Senators Has thousands of constituents, Consisting of a wide variety And deserving of their diligence.

Seeking to be knowledgeable, Senators have resources Consisting of lobbyists and research, Conferees and other sources.

They call on their experience, And their parties for information Colleagues are quite helpful, And the media's observations.

All of them I hope have found The wisest source of all Comes from persistent prayer As on You they call.

You have total knowledge Of future, present, and past, And also the right decisions For every vote that's cast.

Please convince each Senator, Lord, Before a vote is cast It has been approved by You, So a worthy bill passed.

I pray in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator McGinn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1886-

A RESOLUTION supporting an EcoPartnership between the city of Wichita, Kansas and the city of Wuxi, China.

MAY 1, 2009

WHEREAS, The cities of Wichita, Kansas, United States of America and Wuxi, located in Jiangsu Province in the People's Republic of China, face similar challenges in terms of pursuing environmentally sustainable clean air and water solutions; and

WHEREAS, The two cities have agreed to form an "EcoPartnership," pursuant to the Framework for the Ten Year Cooperation on Energy and Environment between the Government of the United States of America and the Government of the People's Republic of China signed on June 18, 2008; and

WHEREAS, The two cities have mutually agreed to enhance the extent of the Wichita-Wuxi EcoPartnership model to further promote and facilitate economic development and environmental sustainability in both regions; and

WHEREAS, The State of Kansas is interested in clean and sustainable development and strengthening its ties with the country of China: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we support the Wichita-Wuxi EcoPartnership, as well as the agreement to expand the model to enhance the information and business exchange piece, in order to facilitate further development and sustainable growth in new and existing industries, including, but not limited to, the areas of agriculture, aviation and energy; and

Be it further resolved: That the Secretary of the Senate be directed to provide five enrolled copies of this resolution to Senator Carolyn McGinn.

On emergency motion of Senator McGinn SR 1886 was adopted unanimously.

Senators Morris, Vratil, D. Schmidt and Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1887-

A RESOLUTION honoring and thanking Emalene G. Correll.

WHEREAS, Emalene Correll served more than 42 years in the Kansas Legislative Research Department, starting work in the Department on September 1, 1966, as a Senior Research Assistant, promoted on November 1, 1970, to Principal Analyst and on June 18, 1974, to Research Associate; and

WHEREAS, Emalene Correll graduated from Topeka High School in 1948 and from the University of Kansas with a Bachelor of Arts degree in Political Science in 1952 and a Masters in Political Science in 1963. In 1954, she received her teaching certificate on the secondary level from Washburn University; and

WHEREAS, Emalene Correll taught government, history, English, economics and sociology at Carbondale High School in 1953-1954 and then from 1954 to 1961 she was a teacher of government, history, English and Spanish for the Topeka Board of Education; and

WHEREAS, In 1961, Emalene Correll went to work for the Kansas Water Resources Board as a Research Assistant while also serving on the State Board of the League of Women Voters; and

WHEREAS, Emalene Correll married Ralph Correll on August 21, 1953, and they were blessed with a daughter Kathleen C. Correll; and

WHEREAS, Emalene Correll was the first woman to serve in the Kansas Legislative Research Department as a professional staff member and one of the first members of the Research Department to staff, on a full time basis, standing committees of the Legislature; and

WHEREAS, During her 42 years of work in the Kansas Legislative Research Department, Emalene Correll staffed a variety of Legislative committees and provided an invaluable contribution to the legislative process in this role; and

WHEREAS, Emalene Correll is known for her encyclopedic knowledge of the subject matter of the committees she staffed, particularly the subject matter of the public health and welfare committees, and for her uncompromising devotion to factual analysis of the issues facing these committees; and

WHEREAS, Emalene Correll set an unparalleled standard for excellence in legislative staffing through her hard work, diligence and devotion to knowledge; and

WHEREAS, Emalene Correll has been an enormous asset to the Kansas Legislature throughout her years of dedicated service, and her contributions to the Kansas Legislative Research Department and to the Kansas Legislature are innumerable: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor Emalene G. Correll for her many years of dedicated work for the Kansas Legislative Research Department, the Kansas Legislature and the State of Kansas; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to Emalene G. Correll, 2916 SW Arrowhead Road, Topeka, Kansas 66614 and to Kathleen C. Correll, 2013 N. 1600 Road, Lawrence, Kansas 66044.

On emergency motion of Senator Vratil SR 1887 was adopted unanimously.

REPORT ON ENROLLED BILLS

SR 1881, SR 1882, SR 1883, SR 1884, SR 1885 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 1, 2009.

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

AFTERNOON SESSION

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

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **Sub SB 311; SB 336; HB 2060; S Sub for HB 2099; HB 2195; S Sub for HB 2267.**

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR SPEAKER: Your committee on conference on Senate amendments to **HB 2060**, submits the following report:

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

On page 1, following line 19, by inserting the following:

"Section 1. K.S.A. 8-1568 is hereby amended to read as follows: 8-1568. (a) (1) Any driver of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to clude for a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), (2) or (3). The signal given by the police officer may be by hand, voice, emergency light or siren. The officer giving such signal shall be in uniform, prominently displaying such officer's badge of office, and the officer's vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle.

(2) Any driver of a motor vehicle who willfully otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), (2) or (3).

(3) It shall be an affirmative defense to any prosecution under paragraph (1) of this subsection that the driver's conduct in violation of such paragraph was caused by such driver's reasonable belief that the vehicle or bicycle pursuing such driver's vehicle is not a police vehicle or police bicycle.

(b) Any driver who violates the provisions of subsection (a) of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, and who: (1) Commits any of the following during a police pursuit: (A) Fails to stop for a police road block; (B) drives around tire deflating devices placed by a police officer; (C) engages in reckless driving as defined by K.S.A. 8-1566 and amendments thereto; (D) is involved in any motor vehicle accident or intentionally causes damage to property; or (E) commits five or more moving violations; or

(2) is attempting to elude capture for the commission of any felony, shall be guilty as provided in subsection (c)(4).

(c) (1) Every person convicted of violating Violation of subsection (a), upon a first conviction, shall be guilty of *is* a class B nonperson misdemeanor.

(2) Every person convicted of violating Violation of subsection (a), upon a second conviction of such subsection, shall be guilty of *is* a class A nonperson misdemeanor.

(3) Every person convicted of violating Violation of subsection (a), upon a third or subsequent conviction of such subsection, shall be guilty of *is* a severity level 9, person felony.

(4) Every person convicted of violating Violation of subsection (b) shall be guilty of is a severity level 9, person felony.

(d) The signal given by the police officer may be by hand, voice, emergency light or siren:

(1) If the officer giving such signal is within or upon an official police vehicle or police bicycle at the time the signal is given, the vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle; or

(2) if the officer giving such signal is not utilizing an official police vehicle or police bicycle at the time the signal is given, the officer shall be in uniform, prominently displaying such officer's badge of office at the time the signal is given.

 $(\mathbf{d})(e)$ For the purpose of this section:

(1) "Conviction" means a final conviction without regard whether sentence was suspended or probation granted after such conviction. Forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

(2) "Appropriately marked" official police vehicle or police bicycle shall include, but not be limited to, any police vehicle or bicycle equipped with functional emergency lights or siren or both and which the emergency lights or siren or both have been activated for the purpose of signaling a driver to stop a motor vehicle.

(e) (f) The division of vehicles of the department of revenue shall promote public awareness of the provisions of this section when persons apply for or renew such person's driver's license.

Sec. 2. K.S.A. 21-3419 is hereby amended to read as follows: 21-3419. (a) A criminal threat is any threat to:

(1) Commit violence communicated with intent to terrorize another, or to cause the evacuation, *lock down or disruption in regular, ongoing activities* of any building, place of assembly or facility of transportation, or in reckless disregard of the risk of causing such terror or evacuation, *lock down or disruption in regular, ongoing activities*;

(2) adulterate or contaminate any food, raw agricultural commodity, beverage, drug, animal feed, plant or public water supply; or

(3) expose any animal in this state to any contagious or infectious disease.

(b) A criminal threat is a severity level 9, person felony.

(c) As used in this section, "threat" includes any statement that one has committed any action described by subsection (a)(1) or (2).

Sec. 3. K.S.A. 2008 Supp. 21-3419a is hereby amended to read as follows: 21-3419a. (a) Aggravated criminal threat is the commission of one or more crimes of criminal threat, as defined in K.S.A. 21-3419 and amendments thereto, when a public, commercial or industrial building, place of assembly or facility of transportation is evacuated, *locked down or disrupted as to regular, ongoing activities* as a result of the threat or threats.

(b) Aggravated criminal threat is a severity level 5, person felony.";

And by renumbering sections accordingly;

On page 2, in line 7, by striking "attending the"; in line 8, by striking "conduct" and inserting "attendance";

On page 3, in line 1, by striking all preceding "of" and inserting ", unlawful attendance"; following line 39, by inserting the following:

"Sec. 7. K.S.A. 21-4603d is hereby amended to read as follows: 21-4603d. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense;

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence, or community corrections placement;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 21-4603b and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (3) of K.S.A. 21-4502, and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape, as defined in K.S.A. 21-3809, and amendments thereto, or aggravated escape, as defined in K.S.A. 21-3810, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson under K.S.A. 21-3718 or 21-3719, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) $\,$ order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10); or

(12) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 21-4018, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The administrative judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (4) of K.S.A. 21-4502, and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release, or postrelease supervision for a felony, a new sentence shall be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671 prior to its repeal or K.S.A. 2007 2008 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(3) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendment thereto or a community intermediate sanction center. Pursuant to this paragraph the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or a community intermediate sanction center and the defendant meets all of the conservation camp's or a community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or a community intermediate sanction center.

(h) The court in committing a defendant to the custody of the secretary of corrections shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(I) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate: (1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I, or 6-G of the sentencing guidelines

grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, or for an offense which is classified in gridblocks 4-E or 4-F of the sentencing guidelines grid for drug crimes and such offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, and (2) otherwise meets admission criteria of the camp. If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 21-4611 and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) Except as provided by subsection (f) of K.S.A. 21-4705, and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 65-4160 or 65-4162 section 6 of 2009 House Bill No. 2236, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 21-4729, and amendments thereto, participate in a certified drug abuse treatment program, as provided in K.S.A. 2007 2008 Supp. 75-52,144, and amendments thereto, including but not limited to, an approved aftercare plan. If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to revocation of probation and the defendant shall serve the underlying prison sentence as established in K.S.A. 21-4705, and amendments thereto. For those offenders who are convicted on or after the effective date of this act, upon completion of the underlying prison sentence, the defendant shall not be subject to a period of postrelease supervision. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of section 6 of 2009 House Bill No. 2236, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall

forward a copy of it to the motor vehicle administrator, of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto.

Sec. 8. K.S.A. 21-4611 is hereby amended to read as follows: 21-4611. (a) The period of suspension of sentence, probation or assignment to community corrections fixed by the court shall not exceed five years in felony cases involving crimes committed prior to July 1, 1993, or two years in misdemeanor cases, subject to renewal and extension for additional fixed periods not exceeding five years in such felony cases, nor two years in misdemeanor cases. In no event shall the total period of probation, suspension of sentence or assignment to community corrections for a felony committed prior to July 1, 1993, exceed the greatest maximum term provided by law for the crime, except that where the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. Probation, suspension of sentence or assignment to community corrections may be terminated by the court at any time and upon such termination or upon termination by expiration of the term of probation, suspension of sentence or assignment to community corrections, an order to this effect shall be entered by the court. The provisions of K.S.A. 75-5291, and amendments thereto, shall be applicable to any assignment to a community correctional services program pursuant to this section.

(b) The district court having jurisdiction of the offender may parole any misdemeanant sentenced to confinement in the county jail. The period of such parole shall be fixed by the court and shall not exceed two years and shall be terminated in the manner provided for termination of suspended sentence and probation.

(c) For all crimes committed on or after July 1, 1993, the duration of probation in felony cases sentenced for the following severity levels on the sentencing guidelines grid for nondrug crimes and the sentencing guidelines grid for drug crimes is as follows:

(1) For nondrug crimes the recommended duration of probations is:

- (A) Thirty-six months for crimes in crime severity levels 1 through 5; and
- (B) 24 months for crimes in crime severity levels 6 and 7.

(2) For drug crimes the recommended duration of probation is 36 months for crimes in crime severity levels 1 and 2.

(3) *Except as otherwise provided*, in felony cases sentenced at severity levels 9 and 10 on the sentencing guidelines grid for nondrug crimes and severity level 4 on the sentencing guidelines grid for drug crimes, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation, or assignment to a community correctional services program as provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to 12 months in length.

(4) In felony cases sentenced at severity level 8 on the sentencing guidelines grid for nondrug crimes and, severity level 3 on the sentencing guidelines grid for drug crimes and felony cases sentenced pursuant to K.S.A. 21-4729, and amendments thereto, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation, or assignment to a community correctional services program, as provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to 18 months in length.

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(5) If the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by the length of the probation terms provided in subsections (c)(3) and (c)(4), the court may impose a longer period of probation. Such an increase shall not be considered a departure and shall not be subject to appeal.

(6) Except as provided in subsections (c)(7) and (c)(8), the total period in all cases shall not exceed 60 months, or the maximum period of the prison sentence that could be imposed whichever is longer. Nonprison sentences may be terminated by the court at any time.

(7) If the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. If the defendant is ordered to pay full or partial restitution, the period may be continued as long as the amount of restitution ordered has not been paid.

(8) The court may modify or extend the offender's period of supervision, pursuant to a modification hearing and a judicial finding of necessity. Such extensions may be made for a maximum period of five years or the maximum period of the prison sentence that could be imposed, whichever is longer, inclusive of the original supervision term.

(d) The provisions of subsection (c), as amended by this act, shall be applied retroactively. The sentencing court shall direct that a review of all persons serving a nonprison sanction for a crime in severity levels 8, 9 or 10 of the sentencing guidelines grid for nondrug crimes or a crime in severity levels 3 or 4 of the sentencing guidelines grid for drug crimes be conducted. On or before September 1, 2000, the duration of such person's probation shall be modified in conformity with the provisions of subsection (c).";

And by renumbering the remaining sections accordingly;

On page 7, in line 35, by striking "the uniform controlled substances act, K.S.A. 65-4101 et seq." and inserting "sections 1 through 17 of 2009 House Bill No. 2236"; in line 40, by striking "the uniform controlled substances act, K.S.A. 65-4101 et seq." and inserting "sections 1 through 17 of 2009 House Bill No. 2236";

On page 9, in line 39, preceding the period by inserting "and shall be served consecutively to any other term or terms of imprisonment imposed";

On page 10, in line 2, by striking all after "under" and inserting "sections 1 through 17 of 2009 House Bill No. 2236, and amendments thereto,";

On page 12, in line 2, by striking all after "of" where it appears for the last time and inserting "sections 1 through 17 of 2009 House Bill No. 2236, and amendments thereto,";

On page 13, in line 3, after "65-4159" by inserting ", prior to its repeal, or section 3 of 2009 House Bill No. 2236,"; in line 15, before "and" by inserting "prior to such section's repeal, or section 6 of 2009 House Bill No. 2236,"; in line 17, by striking "Such" and inserting "Subject to appropriations therefor, such"; in line 20, following the period by inserting "If the secretary determines that substance abuse treatment resources are otherwise available, such term of imprisonment may be served in a facility designated by the secretary of corrections in the custody of the secretary's determination regarding the availability of treatment resources shall not be subject to review."; by striking all in lines 41 through 43;

By striking all on page 14;

On page 15, by striking all in lines 1 through 15 and inserting the following:

"(g) (1) Except as provided further, if the trier of fact makes a finding that an offender carried a firearm to commit a drug felony, or in furtherance of a drug felony, possessed a firearm, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to:

(A) Except as provided in subparagraph (1)(B), an additional 6 months' imprisonment; and

 $(B)\;\;$ if the trier of fact makes a finding that the firearm was discharged, an additional 18 months' imprisonment.

(2) The sentence imposed pursuant to paragraph (1) shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) The provisions of this subsection shall not apply to violations of section 6 or 13 of 2009 House Bill No. 2236, and amendments thereto.

Sec. 11. K.S.A. 2008 Supp. 21-4714 is hereby amended to read as follows: 21-4714. (a) The court shall order the preparation of the presentence investigation report by the court services officer as soon as possible after conviction of the defendant.

(b) Each presentence report prepared for an offender to be sentenced for one or more felonies committed on or after July 1, 1993, shall be limited to the following information:

(1) A summary of the factual circumstances of the crime or crimes of conviction.

(2) If the defendant desires to do so, a summary of the defendant's version of the crime.

(3) When there is an identifiable victim, a victim report. The person preparing the victim report shall submit the report to the victim and request that the information be returned to be submitted as a part of the presentence investigation. To the extent possible, the report shall include a complete listing of restitution for damages suffered by the victim.

(4) An appropriate classification of each crime of conviction on the crime severity scale.

(5) A listing of prior adult convictions or juvenile adjudications for felony or misdemeanor crimes or violations of county resolutions or city ordinances comparable to any misdemeanor defined by state law. Such listing shall include an assessment of the appropriate classification of the criminal history on the criminal history scale and the source of information regarding each listed prior conviction and any available source of journal entries or other documents through which the listed convictions may be verified. If any such journal entries or other documents are obtained by the court services officer, they shall be attached to the presentence investigation report. Any prior criminal history worksheets of the defendant shall also be attached.

(6) A proposed grid block classification for each crime, or crimes of conviction and the presumptive sentence for each crime, or crimes of conviction.

(7) If the proposed grid block classification is a grid block which presumes imprisonment, the presumptive prison term range and the presumptive duration of postprison supervision as it relates to the crime severity scale.

(8) If the proposed grid block classification does not presume prison, the presumptive prison term range and the presumptive duration of the nonprison sanction as it relates to the crime severity scale and the court services officer's professional assessment as to recommendations for conditions to be mandated as part of the nonprison sanction.

(9) For defendants who are being sentenced for a conviction of a felony violation of K.S.A. 65-4160 or 65-4162, *prior to such section's repeal, or section 6 of 2009 House Bill No. 2236,* and amendments thereto, and meet the requirements of K.S.A. 21-4729, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.

(10) For defendants who are being sentenced for a third or subsequent felony conviction of a violation of K.S.A. 65-4160 or 65-4162, *prior to such section's repeal, or section 6 of 2009 House Bill No.* 2236, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.

(c) The presentence report will become part of the court record and shall be accessible to the public, except that the official version, defendant's version and the victim's statement, any psychological reports, risk and needs assessments and drug and alcohol reports and assessments shall be accessible only to the parties, the sentencing judge, the department of corrections, and if requested, the Kansas sentencing commission. If the offender is committed to the custody of the secretary of corrections, the report shall be sent to the secretary and, in accordance with K.S.A. 75-5220 and amendments thereto to the warden of the state correctional institution to which the defendant is conveyed.

(d) The criminal history worksheet will not substitute as a presentence report.

(e) The presentence report will not include optional report components, which would be subject to the discretion of the sentencing court in each district except for psychological reports and drug and alcohol reports.

(f) *Except as provided in K.S.A.* 21-4715, and amendments thereto, the court can take judicial notice in a subsequent felony proceeding of an earlier presentence report criminal history worksheet prepared for a prior sentencing of the defendant for a felony committed on or after July 1, 1993.

(g) All presentence reports in any case in which the defendant has been convicted of a felony shall be on a form approved by the Kansas sentencing commission.

Sec. 12. K.S.A. 21-4715 is hereby amended to read as follows: 21-4715. (a) The offender's criminal history shall be admitted in open court by the offender or determined by a preponderance of the evidence at the sentencing hearing by the sentencing judge.

(b) Except to the extent disputed in accordance with subsection (c), the summary of the offender's criminal history prepared for the court by the state shall satisfy the state's burden of proof regarding an offender's criminal history.

(c) Upon receipt of the criminal history worksheet prepared for the court, the offender shall immediately notify the district attorney and the court with written notice of any error in the proposed criminal history worksheet. Such notice shall specify the exact nature of the alleged error. The state shall have the burden of producing further evidence to satisfy its burden of proof regarding any disputed part, or parts, of the criminal history and the sentencing judge shall allow the state reasonable time to produce such evidence to establish the disputed portion of the criminal history by a preponderance of the evidence. If the offender later challenges such offender's criminal history, which has been previously established, the burden of proof shall shift to the offender to prove such offender's criminal history by a preponderance of the evidence.

Sec. 13. K.S.A. 2008 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A. 1993 Supp. 21-4628 prior to its repeal; K.S.A. 21-4635 through 21-4638, and amendments thereto; K.S.A. 8-1567, and amendments thereto; K.S.A. 21-4624, and amendments thereto; and K.S.A. 21-4624, and amendments thereto; an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, and amendments thereto, an inmate sentenced to imprisonment for the crime of capital murder, or an inmate sentenced for the crime of murder in the first degree based upon a finding of premeditated murder, committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(2) Except as provided by subsection $(\mathbf{b})(1)$ or $(\mathbf{b})(4)$, K.S.A. 1993 Supp. 21-4628 prior to its repeal and K.S.A. 21-4635 through 21-4638, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(3) Except as provided by K.S.A. 1993 Supp. 21-4628 prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(4) An inmate sentenced to imprisonment for a violation of subsection (a) of K.S.A. 21-3402, and amendments thereto, committed on or after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after serving 10 years of confinement without deduction of any good time credits.

(5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

(c) (1) Except as provided in subsection (e), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

 (\hat{A}) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608 and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(B) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment. (d) (1) Persons sentenced for crimes, other than off-grid crimes, committed on or after July 1, 1993, or persons subject to subparagraph (G), will not be eligible for parole, but will be released to a mandatory period of postrelease supervision upon completion of the prison portion of their sentence as follows:

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 1 through 4 crimes and drug severity levels 1 and 2 crimes must serve 36 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes and drug severity level 3 crimes must serve 24 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 7 through 10 crimes and drug severity level 4 crimes must serve 12 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(D) (i) The sentencing judge shall impose the postrelease supervision period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless the judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated. In that event, departure may be imposed to extend the postrelease supervision to a period of up to 60 months.

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721, and amendments thereto.

 $(\ensuremath{\text{iii}})$ In determining whether substantial and compelling reasons exist, the court shall consider:

(a) Written briefs or oral arguments submitted by either the defendant or the state;

(b) any evidence received during the proceeding;

(c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to subsection (e) of K.S.A. 21-4714, and amendments thereto; and

(d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the parole board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subparagraph (d)(1)(D), the court shall refer to K.S.A. 21-4718, and amendments thereto.

(vi) Upon petition, the parole board may provide for early discharge from the post-release supervision period upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the parole board.

(vii) Persons convicted of crimes deemed sexually violent or sexually motivated, shall be registered according to the offender registration act, K.S.A. 22-4901 through 22-4910, and amendments thereto.

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of postrelease supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

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(F) In cases where sentences for crimes from more than one severity level have been imposed, the offender shall serve the longest period of postrelease supervision as provided by this section available for any crime upon which sentence was imposed irrespective of the severity level of the crime. Supervision periods will not aggregate.

(G) Except as provided in subsection (u), persons convicted of a sexually violent crime committed on or after July 1, 2006, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(2) As used in this section, "sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto;
 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments

thereto; (a)(2) and (a)(3) of **K**.5.4. 21-5505, and a thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;

 $(G)\,$ aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, and amendments thereto; or

 $(K)\,$ an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of a sexually violent crime as defined in this section.

"Sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(e) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the Kansas parole board may postpone the inmate's parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate's parole or conditional release had been violated for reasons other than conviction of a crime.

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. 21-4724, and amendments thereto, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the Kansas parole board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp. 21-4628 prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the Kansas parole board.

(g) Subject to the provisions of this section, the Kansas parole board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, for deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of

the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The Kansas parole board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least the month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the Kansas parole board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the parole board will review the inmates proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a, and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on post-release supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) Before ordering the parole of any inmate, the Kansas parole board shall have the inmate appear before either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the Kansas parole board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the secretary of the specific programs the

inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to 10 years but any such deferral shall require the board to state the basis for its findings.

 $(k)\,\,$ Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(1) The Kansas parole board shall adopt rules and regulations in accordance with K.S.A. 77-415 et seq., and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, postrelease supervision reviews, revocation hearings, orders of restitution, reimbursement of expenditures by the state board of indigents' defense services and other conditions to be imposed upon parolees or releasees. Whenever an order for parole or postrelease supervision is issued it shall recite the conditions thereof.

(m) Whenever the Kansas parole board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board:

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

(2) to the extent practicable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision make progress towards or successfully complete the equivalent of a secondary education if the inmate has not previously completed such educational equivalent and is capable of doing so;

(3) may order that the parolee or person on postrelease supervision perform community or public service work for local governmental agencies, private corporations organized notfor-profit or charitable or social service organizations performing services for the community;

(4) may order the parolee or person on postrelease supervision to pay the administrative fee imposed pursuant to K.S.A. 22-4529, and amendments thereto, unless the board finds compelling circumstances which would render payment unworkable; and

(5) unless it finds compelling circumstances which would render a plan of payment unworkable, shall order that the parolee or person on postrelease supervision reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the parole board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less, minus any previous payments for such services.

(n) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the Kansas parole board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable.

(o) Whenever the Kansas parole board grants the parole of an inmate, the board, within 10 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(p) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(q) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(r) An inmate who is allocated regular good time credits as provided in K.S.A. 22-3725, and amendments thereto, may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions which result in a financial savings to the state.

(s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and (d)(1)(E) shall be applied retroactively as provided in subsection (t).

(t) For offenders sentenced prior to the effective date of this act who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section for offenders convicted of severity level 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes and severity level 4 crimes on the sentencing guidelines grid for drug crimes on or before September 1, 2000; for offenders convicted of severity level 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or before November 1, 2000; and for offenders convicted of severity level 5 and 6 crimes on the sentencing guidelines grid for drug crimes on or before Sentencing guidelines grid for drug crimes on or before Sentencing guidelines grid for drug crimes on or before January 1, 2001.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the Kansas parole board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

(v) Whenever the Kansas parole board or the court orders a person to be electronically monitored, the board or court shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board or court shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

(w) Documents, records and reports from the parole board, reviewed and produced on and after July 1, 2008, through June 30, 2009, concerning factors and rationale used to determine the granting or denial of parole, shall be available to members of the standing senate committee on judiciary and the standing house committee on corrections and juvenile justice, when carrying out such committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. The parole board shall provide to such legislative members a summary statement of the factors and rationale used to determine such grant or denial and any correspondence received by the parole board relating to such grant or denial. Documents, records and reports received by the committee

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are confidential and shall not be further disclosed. Such documents, records and reports received shall have information redacted which identifies any person or location, including, but not limited to, a city or county, except this provision shall not apply to the name of the inmate whose records are being reviewed. Such documents, records and reports received shall not be subject to K.S.A. 45-221, and amendments thereto. All copies of such documents, records and reports shall be returned to the parole board prior to the open meeting resuming. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. If the house of representatives does not have a standing committee on corrections and juvenile justice, the standing committee on judiciary shall have access to such records in the same manner and under the same restrictions as the committee on corrections and juvenile justice.

Sec. 14. K.S.A. 2008 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

(1) Personnel matters of nonelected personnel;

(2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;

(3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;

(4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;

(5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;

(6) preliminary discussions relating to the acquisition of real property;

(7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto;

(8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (d)(1) of K.S.A. 38-1507 and amendments thereto or subsection (e) of K.S.A. 38-1508 and amendments thereto;

(9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto;

(10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 44-596 and amendments thereto;

(11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 39-7,119 and amendments thereto;

(12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;

(13) matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination

or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments;

(14) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto; and

(15) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2008 Supp. 75-7427, and amendments theretor; and

(16) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (w) of K.S.A. 22-3717, and amendments thereto.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

(d) (1) Any confidential records or information relating to security measures provided or received under the provisions of subsection (b)(13), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

(2) (A) Except as otherwise provided by law, any confidential documents, records or reports relating to the parole board provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

(B) Notwithstanding any other provision of law to the contrary, any summary statement provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

Sec. 15. K.S.A. 2008 Supp. 75-5291 is hereby amended to read as follows: 75-5291. (a) (1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services that address the criminogenic needs of felony offenders including, but not limited to, adult intensive supervision, substance abuse and mental health services, employment and residential services, and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52,127 and amendments thereto.

(2) Except as otherwise provided, placement of offenders in community correctional services programs by the court shall be limited to placement of adult offenders, convicted of a felony offense:

(A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In addition, the court may place in a community correctional services program adult offenders, convicted of a felony offense, whose offense is classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes;

(B) whose severity level and criminal history score designate a presumptive prison sentence on either sentencing guidelines grid but receive a nonprison sentence as a result of departure;

(C) all offenders convicted of an offense which satisfies the definition of offender pursuant to K.S.A. 22-4902, and amendments thereto, and which is classified as a severity level 7 or higher offense and who receive a nonprison sentence, regardless of the manner in which the sentence is imposed;

(D) any offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in the offender being required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections;

(E) on and after July 1, 2010 January 1, 2011, for offenders who are expected to be subject to supervision in Kansas, who are determined to be "high risk or needs, or both" by the use of a statewide, mandatory, standardized risk assessment tool or instrument which shall be specified by the Kansas sentencing commission;

(F) placed in community correctional services programs as a condition of supervision following the successful completion of a conservation camp program; or

(G) who has been sentenced to community corrections supervision pursuant to K.S.A. 21-4729, and amendments thereto.

(3) (A) Notwithstanding any law to the contrary and subject to the availability of funding therefor, adult offenders sentenced to community supervision in Johnson county for felony crimes that occurred on or after July 1, 2002, but before July 1, 2010 January 1, 2011, shall be placed under court services or community corrections supervision based upon court rules issued by the chief judge of the 10th judicial district. The provisions contained in this subsection shall not apply to offenders transferred by the assigned agency to an agency located outside of Johnson county. The provisions of this paragraph shall expire on July 1, 2010 January 1, 2011.

(B) On or before the first day of the 2009 legislative session, the Kansas sentencing commission shall submit a written report on such offender program to the senate standing committee on judiciary and the house of representatives standing committee on judiciary.

(4) Nothing in this act shall prohibit a community correctional services program from providing services to juvenile offenders upon approval by the local community corrections advisory board. Grants from community corrections funds administered by the secretary of corrections shall not be expended for such services.

(5) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established, as provided in K.S.A. 22-3716, and amendments thereto, to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(b) (1) In order to establish a mechanism for community correctional services to participate in the department of corrections annual budget planning process, the secretary of corrections shall establish a community corrections advisory committee to identify new or enhanced correctional or treatment interventions designed to divert offenders from prison.

(2) The secretary shall appoint one member from the southeast community corrections region, one member from the northeast community corrections region, one member from the central community corrections region and one member from the western community corrections region. The deputy secretary of community and field services shall designate two members from the state at large. The secretary shall have final appointment approval of the members designated by the deputy secretary. The committee shall reflect the diversity of community correctional services with respect to geographical location and average daily population of offenders under supervision.

(3) Each member shall be appointed for a term of three years and such terms shall be staggered as determined by the secretary. Members shall be eligible for reappointment.

(4) The committee, in collaboration with the deputy secretary of community and field services or the deputy secretary's designee, shall routinely examine and report to the secretary on the following issues:

- (A) Efficiencies in the delivery of field supervision services;
- (B) effectiveness and enhancement of existing interventions;
- (C) identification of new interventions; and
- (D) statewide performance indicators.
- (5) The committee's report concerning enhanced or new interventions shall address:
- (A) Goals and measurable objectives;
- (B) projected costs;
- (C) the impact on public safety; and
- (D) the evaluation process.

(6) The committee shall submit its report to the secretary annually on or before July 15 in order for the enhanced or new interventions to be considered for inclusion within the department of corrections budget request for community correctional services or in the department's enhanced services budget request for the subsequent fiscal year.

Sec. 16. K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4603d, as amended by section 32 of 2009 House Bill No. 2236, 21-4611 and 21-4715 and K.S.A. 2008

Supp. 21-3419a, 21-4704, 21-4704, as amended by section 33 of 2009 House Bill No. 2236, 21-4705, 21-4705, as amended by section 34 of 2009 House Bill No. 2236, 21-4714, 21-4714, as amended by section 37 of 2009 House Bill No. 2236, 22-3717, 75-4319 and 75-5291 are hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all in lines 12 through 17 and inserting the following: "AN ACT concerning crimes, punishment and criminal procedure; amending K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4611 and 21-4715 and K.S.A. 2008 Supp. 21-3419a, 21-4704, 21-4705, 21-4714, 22-3717, 75-4319 and 75-5291 and repealing the existing sections; also repealing K.S.A. 21-4603d, as amended by section 32 of 2009 House Bill No. 2236, and K.S.A. 2008 Supp. 21-4704, as amended by section 33 of 2009 House Bill No. 2236, 21-4705, as amended by section 34 of 2009 House Bill No. 2236, and 21-4714, as amended by section 37 of 2009 House Bill No. 2236.";

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

THOMAS OWENS DEREK SCHMIDT DAVID HALEY Conferees on part of Senate

PAT COLLOTON JOE PATTON MELODY MCCRAY-MILLER Conferees on part of House

A motion by Senator Haley to reject the Conference Committee Report failed. Senator Owens moved the Senate adopt the Conference Committee Report on **HB 2060**. On roll call, the vote was: Yeas 20, Nays 20, Present and Passing 0, Absent or Not Voting

0.

Yeas: Abrams, Apple, Barnett, Colyer, Donovan, Emler, Holland, Huelskamp, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schodorf, Wagle.

Nays: Brownlee, Bruce, Brungardt, Faust-Goudeau, Francisco, Haley, Hensley, Kelly, Kelsey, Kultala, Lee, Ostmeyer, Reitz, Schmidt V, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

The Conference Committee report was not adopted.

ORIGINAL MOTION

Having voted on the prevailing side in Final Action, Senator Brungardt moved the Senate reconsider its adverse action on **HB 2060**.

Senator Brungardt moved the Senate not adopt the Conference Committee Report on **HB 2060** and a new conference committee be appointed. The motion carried.

President Morris appointed Senators Owens, D. Schmidt and Haley as third conferees on the part of the Senate.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2267**, submits the following report:

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

On page 1, by striking all in lines 35 through 41 and by inserting the following:

"(c) On July 1, 2009, the governor shall appoint the membership of the task force. Any person serving as a member of the task force on June 30, 2009, may be reappointed. The terms of members appointed or reappointed to the task force shall expire on July 1, 2011. Vacancies occurring before the expiration of a term shall be filled in the same manner as the original appointment.";

On page 4, in line 14, by striking "information" and inserting "certification";

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

PETE BRUNGARDT ROGER P. REITZ OLETHA FAUST-GOUDEAU Conferees on part of Senate

LANCE KINZER JEFF WHITHAM JANICE L. PAULS Conferees on part of House

Senator Brungardt moved the Senate adopt the Conference Committee Report on **S Sub** for HB 2267.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Conference Committee report was adopted.

CONFIRMATION OF APPOINTMENTS

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

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

On the appointment to the:

Brigadier General, Kansas National Guard:

Colonel Alexander Duckworth, serves at the pleasure of the Governor.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The appointment was confirmed.

On the appointment to the:

Kansas Human Rights Commission:

Jeffrey E. Lewis, term expires January 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The appointment was confirmed.

On the appointment to the:

Kansas Public Employees' Retirement Board of Trustees:

Michael Braude, term expires January 15, 2013.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, PilcherCook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The appointment was confirmed.

On the appointment to the:

Kansas Public Employees' Retirement Board of Trustees:

Rachel Reiber, term expires January 15, 2013.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The appointment was confirmed.

On the appointment to the:

Kansas Health Policy Authority:

Kenneth L. Daniel, Jr., term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The appointment was confirmed.

COMMITTEE OF THE WHOLE

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

On motion of Senator McGinn the following report was adopted:

Recommended SB 336 be passed.

HB 2195 be amended by adoption of the committee amendments, and the bill be passed as amended.

The committee report on **SB 311** recommending a **Sub SB 311** be adopted, and the substitute bill be passed.

The committee report on **HB 2099** recommending a **S Sub for HB 2099** be adopted, and the substitute bill be passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and **Sub SB 311, SB 336; S Sub for HB 2099; HB 2195** were advanced to Final Action and roll call.

Sub SB 311, An act concerning the state budget; state general fund and special revenue fund expenditures, transfers and ending balance requirements; reduction and allotment procedures; amending K.S.A. 75-3722 and 75-6704 and repealing the existing sections.

On roll call, the vote was: Yeas 24, Nays 16, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Wagle.

Nays: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, Owens, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

The substitute bill passed.

SB 336, An act reconciling amendments to certain statutes and making certain technical changes related thereto; amending K.S.A. 16a-6-117, as amended by section 23 of 2009 Senate Bill No. 240, 20-3201, 21-3826, as amended by section 1 of 2009 Senate Bill No. 237, and 72-4423, as amended by section 11 of 2009 House Bill No. 2003, and K.S.A. 2008 Supp. 8-126, as amended by section 4 of 2009 Senate Bill No. 275, 8-1567, as amended by section 5 of 2009 Senate Substitute for House Bill No. 2096, 8-2110, as amended by section 1 of 2009 Senate Bill No. 158, 12-5242, 19-101a, 20-367, 22-3716, 25-4156, 25-4169a, 28-172a, as amended by section 15 of 2009 Senate Bill No. 66, 38-2211, 38-2255, as amended by section 6 of 2009 Senate Bill No. 134, 45-221, as amended by section 27 of 2009 House Bill No. 2052, 59-104, as amended by section 19 of 2009 Senate Bill No. 66, 60-1621, as amended by section 22 of 2009 Senate Bill No. 66, 60-2001, as amended by section 23 of 2009 Senate Bill No. 66, 60-4104, as amended by section 1 of 2009 Substitute for Senate Bill No. 28, 61-2704, as amended by section 25 of 2009 Senate Bill No. 66, 61-4001, as amended by section 26 of 2009 Senate Bill No. 66, 65-1643, 65-2878, 66-2005, 72-6448, 75-7c04, as amended by section 2 of 2009 House Bill No. 2308, 75-7427, 76-3110, 79-213, 79-5a27 and 79-32,117 and section 16 of 2009 House Bill No. 2236 and repealing the existing sections; also repealing K.S.A. 20-3201, as amended by section 1 of 2009 House Bill No. 2111, 21-3826, as amended by section 27 of 2009 House Bill No. 2236, 65-4142, as amended by section 1 of 2009 House Bill No. 2059, and 76-3110, as amended by section 36 of chapter 145 of the 2004 Session Laws of Kansas, and K.S.A. 2008 Supp. 8-126, as amended by section 4 of 2009 House Bill No. 2152, 8-1567, as amended by section 19 of 2009 House Bill No. 2236, 8-2110, as amended by section 3 of 2009 Senate Bill No. 66, 12-1773a, 12-5242a, 12-5242b, 19-101m, 20-376, as amended by section 2 of 2009 House Bill No. 2111, 22-3716a, 25-4156a, 25-4169b, 28-172a, as amended by section 3 of 2009 House Bill No. 2111, 38-2211a, 38-2255, as amended by section 47 of 2009 House Bill No. 2236, 39-756d, 45-221, as amended by section 2 of 2009 Senate Bill No. 87, 45-229b, 59-104, as amended by section 4 of 2009 House Bill No. 2111, 60-1621, as amended by section 5 of 2009 House Bill No. 2111, 60-2001, as amended by section 6 of 2009 House Bill No. 2111, 60-2102a, 60-2403a, 60-4104, as amended by section 51 of 2009 House Bill No. 2236, 61-2704, as amended by section 7 of 2009 House Bill No. 2111, 61-3003a, 61-4001, as amended by section 8 of 2009 House Bill No. 2111, 65-1643b, 65-2878b, 66-2005a, 72-6433c, 72-6448, as amended by section 1 of 2009 House Bill No. 2002, 75-7c04, as amended by section 60 of 2009 House Bill No. 2236, 75-7427a, 79-213e, 79-5a27a and 79-32,117m and section 1 of 2009 Senate Substitute for House Bill No. 2126.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

S Sub for HB 2099, An act concerning open records; amending K.S.A. 2008 Supp. 45-221, as amended by section 27 of 2009 House Bill No. 2052 and repealing the existing section; also repealing K.S.A. 2008 Supp. 45-221, as amended by section 2 of 2009 Senate Bill No. 87.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The substitute bill passed.

HB 2195, An act concerning state records; relating to maintenance and certification of electronic records; concerning electronic court documents; amending K.S.A. 45-406, 59-

29a19, 59-29b67, 59-29b71, 59-2967, 59-2971 and 75-3519 and K.S.A. 2008 Supp. 38-2305 and 59-29a08 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Monday, May 4, 2009.

Journal of the Senate

SIXTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS Monday, May 4, 2009—10:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I pray for our new Governor: Governor Mark Parkinson. He's taking the place of the one Who is now in Washington.

He used to be a Senator From District twenty-three. So he experienced state government From the view that Senators see.

Addressing the legislature, He said bipartisanship Is the key to solving problems Which have Kansas in their grip.

One reporter said the effort To find the right mix Of revenue and expense changes Would be a challenge to fix.

In a wedding once I witnessed Bipartisanship without a spat, I united a Republican man To a lady Democrat!

How wonderful it would be, O God, If we could reach an amiable solution Which resembled the peace I witnessed At that wedding's calm conclusion.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

On motion of Senator D. Schmidt, the Senate recessed until 1:30 p.m.

AFTERNOON SESSION

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

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2295**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2295," as follows:

"SENATE Substitute for HOUSE BILL No. 2295

By Committee on Agriculture

"AN ACT concerning agriculture; relating to application of swine waste; fees for pesticide and fertilizer programs; fees for milk and dairy products; amending K.S.A. 2-2203, 2-2205, 2-2206, 2-2207, 2-2209, 2-2214, 2-2440a, 2-2440c, 2-2440e, 2-2446, 2-2449, 2-2450, 2-2454, 2-2455, 2-2470 and 2-2471 and K.S.A. 2008 Supp. 2-1205, 2-2202, 2-2204, 2-2438a, 2-2440, 2-2440b, 2-2441a, 2-2443a, 2-2445a, 2-2469, 2-2905, 2-2906, 2-3304, 2-3306, 2-3309, 2-3318, 65-778, 65-781 and 65-1,182 and repealing the existing sections; also repealing K.S.A. 2-1211 and 2-2466."; and the substitute bill be passed.

and the substitute bill be passed.

REFERRED TO COMMITTEE

President Morris referred **S Sub for HB 2295** to the **Committee of the Whole**. On motion of Senator D. Schmidt **S Sub for HB 2295** was moved to the top of the Calendar under the heading of General Orders.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **S** Sub for HB 2295.

COMMITTEE OF THE WHOLE

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

On motion of Senator Apple the following report was adopted:

The committee report on **HB 2295** recommending a **S Sub for HB 2295** be adopted, and the substitute bill be passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **S Sub for HB 2295** was advanced to Final Action and roll call.

S Sub for HB 2295, An act concerning agriculture; relating to application of swine waste; fees for pesticide and fertilizer programs; fees for milk and dairy products; amending K.S.A. 2-2203, 2-2205, 2-2206, 2-2207, 2-2209, 2-2214, 2-2440a, 2-2440c, 2-2440e, 2-2446, 2-2449, 2-2450, 2-2454, 2-2455, 2-2470 and 2-2471 and K.S.A. 2008 Supp. 2-1205, 2-2202, 2-2204, 2-2438a, 2-2440, 2-2440b, 2-2441a, 2-2443a, 2-2445a, 2-2469, 2-2905, 2-2906, 2-3304, 2-3306, 2-3309, 2-3318, 65-778, 65-781 and 65-1,182 and repealing the existing sections; also repealing K.S.A. 2-1211 and 2-2466.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The substitute bill passed.

On motion of Senator D. Schmidt the Senate adjourned until 9:00 a.m., Tuesday, May 5, 2009.

Journal of the Senate

SIXTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS Tuesday, May 5, 2009—9:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with forty senators present. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I want to thank You that Your influence on the Founders is obvious as their own words have shown:

George Washington: (May 14, 1787 at the Constitutional Convention) "Let us raise a standard to which the wise and the honest can repair; the event is in the hands of God."

John Adams: (October 11, 1798) "Our constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other."

Ben Franklin (June 28, 1787 at the Constitutional Convention) "... the longer I live, the more convincing proofs I see of the truth—that God governs in the affairs of men. And if a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid?"

James Madison: (1778) "We have staked the future of all of our political institutions upon the capacity of mankind for self-government, upon the capacity of each and all of us to govern ourselves, to control ourselves, to sustain ourselves according to the Ten Commandments of God."

These quotations, along with those of the rest of the founders, verify that they took seriously the words of the Psalmist, "Blessed is the nation whose God is the Lord." (Psalms 33:12a) And that You intended to influence all layers of American government.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to Senate Substitute for HB 2032.

The House concurs in Senate amendments to Senate Substitute for HB 2099.

The House nonconcurs in Senate amendments to **HB 2195**, requests a conference and appoints Representatives Morrison, Kinzer and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **HB 2060** and has appointed Representatives Colloton, Patton and McCray-Miller as third conferees on the part of House.

On motion of Senator D. Schmidt, the Senate recessed until 9:45 a.m.

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

CHANGE OF REFERENCE

The President withdrew **HB 2369** from the Committee on **Ways and Means**, and referred the bill to the Committee on **Utilities**.

ORIGINAL MOTION

On motion of Senator Emler, the Senate acceded to the request of the House for a conference on **HB 2195**.

The President appointed Senators Vratil, McGinn and Kelly as conferees on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 337** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 337," as follows:

"Substitute for SENATE BILL No. 337

By Committee on Assessment and Taxation

"AN ACT concerning the settlement authority of secretary of revenue; relating to certain assessments.";

and the substitute bill be passed.

COMMITTEE OF THE WHOLE

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

On motion of Senator Apple the following report was adopted:

S Sub for HB 2373 be amended by adoption of the committee report recommending a substitute bill, be further amended by motion of Senator Emler, on page 49, in line 40, by adding \$487,500 to the dollar amount and by adjusting the dollar amount in line 40 accordingly;

On page 52, in line 19, by subtracting \$487,500 from the dollar amount and by adjusting the dollar amount in line 19 accordingly;

On page 55, after line 29, by inserting the following:

"(u) In addition to the other purposes for which expenditures may be made by the above agency from the state operations account of the state general fund for fiscal year 2010, as authorized by 2009 Senate Substitute for House Bill No. 2354, expenditures shall be made by the above agency from the state operations account of the state general fund for fiscal year 2010 to make expenditures to contract with Kansas legal services for the purpose of providing legal representation and disability determination case management for adult cash assistance recipients."

S Sub for HB 2373 be further amended by motion of Senator Emler, on page1, in line 32, by striking "and" where it appears for the first time, and inserting a comma; also in line 32, after "2011," by inserting "June 30, 2012, June 30, 2013 and June 30, 2014,";

On page 4, in line 22, by adding \$469,766 to the dollar amount and by adjusting the dollar amount in line 22 accordingly;

On page 31, in line 1, by subtracting \$2,248,000 from the dollar amount and by adjusting the dollar amount in line 1 accordingly; after line 28, by inserting the following:

"(e) On July 1, 2009, of the \$369,788,630 appropriated for the above agency for the fiscal year ending June 30, 2010 by section 66(a) of 2009 Senate Substitute for House Bill No. 2354 from the state general fund in the special education services aid account, the sum of \$2,248,000 is hereby lapsed.";

On page 35, after line 7, by inserting the following:

"(o) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 79-4227, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$2,000,000 from the special county

mineral production tax fund of the department of revenue to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the special county mineral production tax fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the special county mineral production tax fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the department of revenue by other state general fund to provide such services.

(p) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of any other statute, the director of accounts and reports shall transfer \$400,000 from the county drug tax fund of the department of revenue to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the county drug tax fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the county drug tax fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the department of revenue by other state agencies which receive appropriations from the state general fund to provide such services.

(q) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 79-3387 or 79-3391, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$380,000 from the cigarette and tobacco products regulation fund of the department of revenue to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the cigarette and tobacco products regulation fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the cigarette and tobacco products regulation fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the department of revenue by other state agencies which receive appropriations from the state general fund to provide such services.";

On page 66, in line 10, by subtracting \$336,590 from the dollar amount and by adjusting the dollar amount in line 10 accordingly;

On page 73, in line 17, by striking "an";

On page 1, in the title, in line 10, by striking "and" and inserting a comma

S Sub for HB 2373 be further amended by motion of Senator Emler, on page 63, in line 23, by adding \$2,427 to the dollar amount and by adjusting the dollar amount in line 23 accordingly; in line 27, by adding \$793 to the dollar amount and by adjusting the dollar amount in line 27 accordingly; in line 32, by adding \$10,983 to the dollar amount and by adjusting the dollar amount in line 32 accordingly; in line 32 accordingly; in line 37, by adding \$221 to the dollar amount and by adjusting the dollar amount in line 37 accordingly; in line 37, by adding \$370 to the dollar amount and by adjusting the dollar amount in line 37 accordingly; in line 42, by adding \$370 to the dollar amount and by adjusting the dollar amount in line 42 accordingly;

On page 64, in line 3, by adding \$130 to the dollar amount and by adjusting the dollar amount in line 3 accordingly; in line 7, by adding \$350 to the dollar amount and by adjusting the dollar amount in line 7 accordingly; in line 11, by adding \$1,374 to the dollar amount and by adjusting the dollar amount in line 11 accordingly; in line 16, by adding \$648 to the dollar amount and by adjusting the dollar amount in line 11 accordingly; in line 16, by adding \$648 to the dollar amount and by adjusting the dollar amount in line 16 accordingly; in line 21, by adding \$85 to the dollar amount and by adjusting the dollar amount in line 21 accordingly; in line 25, by adding \$311 to the dollar amount and by adjusting the dollar amount in line 25 accordingly; in line 30, by adding \$80 to the dollar amount and by adjusting the dollar amount in line 30 accordingly; in line 35, by adding \$8,146 to the dollar amount and by adjusting the dollar amount and by adjusting the dollar amount and by adjusting the dollar amount in line 30 accordingly; in line 35, by adding \$8,146 to the dollar amount and by adjusting the dollar amount in line 30 accordingly; in line 35, by adding \$8,146 to the dollar amount amount and by adjusting the dollar amount in line 41 accordingly;

On page 65, in line 2, by adding \$1,084 to the dollar amount and by adjusting the dollar amount in line 2 accordingly; in line 6, by adding \$71,384 to the dollar amount and by adjusting the dollar amount in line 6 accordingly; in line 12, by adding \$296 to the dollar

amount and by adjusting the dollar amount in line 12 accordingly; in line 16, by adding \$53 to the dollar amount and by adjusting the dollar amount in line 16 accordingly; in line 21, by adding \$63 to the dollar amount and by adjusting the dollar amount in line 21 accordingly; in line 25, by adding \$140 to the dollar amount and by adjusting the dollar amount in line 25 accordingly; in line 31, by adding \$1,330 to the dollar amount and by adjusting the dollar amount in line 31 accordingly; in line 35, by adding \$537 to the dollar amount and by adjusting the dollar amount amount in line 35 accordingly; in line 40, by adding \$245 to the dollar amount amount amount amount amount amount amount amount amount in line 40 accordingly;

On page 66, in line 2, by adding \$297 to the dollar amount and by adjusting the dollar amount in line 2 accordingly; in line 6, by subtracing \$2,451 from the dollar amount and by adjusting the dollar amount in line 6 accordingly; in line 23, by adding \$76,511 to the dollar amount and by adjusting the dollar amount in line 23 accordingly; in line 28, by adding \$98 to the dollar amount and by adjusting the dollar amount in line 28 accordingly; in line 33, by adding \$133 to the dollar amount and by adjusting the dollar amount in line 33 accordingly; in line 33 accordingly; in line 34 to the dollar amount in line 35 accordingly; in line 36 to the dollar amount and by adjusting the dollar amount in line 36 to the dollar amount and by adjusting the dollar amount in line 36 to the dollar amount and by adjusting the dollar amount in line 36 to the dollar amount and by adjusting the dollar amount in line 37 accordingly; in line 38 accordingly; in line 39 accordingly; in line 39 accordingly; in line 39 accordingly; in line 30 accord

On page 67, in line 9, by adding \$13,817 to the dollar amount and by adjusting the dollar amount in line 9 accordingly; in line 14, by adding \$22,053 to the dollar amount and by adjusting the dollar amount in line 14 accordingly; in line 26, by adding \$7,322 to the dollar amount and by adjusting the dollar amount in line 26 accordingly; in line 30, by adding \$280 to the dollar amount and by adjusting the dollar amount in line 26 accordingly; in line 30, by adding \$280 to the dollar amount and by adjusting the dollar amount in line 30 accordingly; in line 38, by adding \$94,376 to the dollar amount and by adjusting the dollar amount in line 38 accordingly; in line 42, by adding \$4,388 to dollar amount and by adjusting the dollar amount in line 42 accordingly;

On page 68, in line 3, by adding \$98 to the dollar amount and by adjusting the dollar amount in line 3 accordingly; in line 14, by adding \$75,087 to the dollar amount and by adjusting the dollar amount in line 14 accordingly; in line 18, by adding \$1,951 to the dollar amount and by adjusting the dollar amount in line 18 accordingly; in line 23, by adding \$3,245 to the dollar amount and by adjusting the dollar amount in line 18 accordingly; in line 23 accordingly; in line 34, by adding \$24,071 to the dollar amount and by adjusting the dollar amount in line 34 accordingly; in line 38, by adding \$97 to the dollar amount and by adjusting the dollar amount in line 38 accordingly;

On page 69, in line 1, by adding \$201 to the dollar amount and by adjusting the dollar amount in line 1 accordingly; in line 8, by adding \$22,843 to the dollar amount and by adjusting the dollar amount in line 8 accordingly; in line 12, by adding \$159 to the dollar amount and by adjusting the dollar amount in line 12 accordingly; in line 16, by adding \$95 to the dollar amount and by adjusting the dollar amount in line 12 accordingly; in line 16, by adding \$95 to the dollar amount and by adjusting the dollar amount in line 16 accordingly; in line 24, by adding \$24,861 to the dollar amount and by adjusting the dollar amount in line 24 accordingly; in line 31, by adding \$48,251 to the dollar amount and by adjusting the dollar amount in line 31 accordingly

S Sub for HB 2373 be further amended by motion of Senator Vratil, on page 69, following line 31, by inserting the following:

"Sec. 86. (a) On July 1, 2009, of the amount of each appropriation or reappropriation for a state agency for the fiscal year ending June 30, 2010, made by 2009 Senate Substitute for House Bill No. 2354 from the state general fund, the sum equal to 0.25% of such appropriation or reappropriation, which is not exempt, is hereby lapsed. The following are exempt from and shall not be reduced by such lapsing provision: (1) Any item of appropriation or reappropriation for debt service for payments pursuant to contractual bond obligations, and (2) any item of appropriation or reappropriation from the state general fund for the fiscal vear ending June 30, 2010, for the department of social and rehabilitation services, Kansas health policy authority, or the department on aging which are required to meet caseload obligations under the state medicaid plan including nursing facilities, general medical, targeted case management, mental health, community supports and services, or addiction and prevention services or for the department of social and rehabilitation services to meet caseload obligations for nursing facilities for mental health, general assistance, temporary assistance for 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 clause (2): *Provided*, That, at the same time that such certification

is made by the director of the budget to the director of accounts and reports under this clause (2), the director of the budget shall deliver a copy of such certification to the director of the legislative research department.";

And by renumbering sections accordingly

S Sub for HB 2373 be further amended by motion of Senator Teichman, on page 31, by striking all in lines 2 through 28

S Sub for HB 2373 be further amended by motion of Senator V. Schmidt, on page 50, in line 11, preceding the period, by inserting the following:

": And provided further, That, the Kansas health policy authority shall not expend any moneys appropriated for fiscal year 2009 or fiscal year 2010 for such agency as authorized by chapter 131 or 184 of the 2008 Session Laws of Kansas, House Substitute for Substite for Substi

S Sub for HB 2373 be further amended by motion of Senator Taddiken, on page 17, before line 18, by inserting the following:

"(d) On September 1, 2009, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$25,287,150 from the state highway fund of the department of transportation to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the state highway fund of the department of transportation to the state general fund as prescribed by law: *Provided further*, That all moneys transferred shall be from revenue generated by moneys credited to the state highway fund pursuant to K.S.A. 79-3620 and 79-3710, and amendments thereto."

S Sub for HB 2373 be further amended by motion of Senator D. Schmidt, on page 69, following line 31, by inserting the following:

"Sec. 86. (a) On the effective date of this act, the amount directed to be transferred by any subsection of any section of this act by the director of accounts and reports from any special revenue fund for any state agency to the state general fund, for the express purpose to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency by other state agencies which receive appropriations from the state general fund to provide such services, on the effective date of this act, or as soon thereafter as moneys are available, is hereby decreased by the amount equal to 36% of the amount directed to be transferred by such subsection of such section of this act: *Provided*, That the director of the budget shall calculate and certify the amount of each such decrease prescribed by this subsection (a) to the director of the budget to the director of accounts and reports under this subsection (a), the director of the budget shall deliver a copy of such certification to the director of the legislative research department.

(b) On July 1, 2009, the amount directed to be transferred by any section of this act by the director of accounts and reports from any special revenue fund for any state agency to the state general fund, for the express purpose to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency by other state agencies which receive appropriations from the state general fund to provide such services, on July 1, 2009, or as soon thereafter as moneys are available, is hereby decreased by the amount equal to 36% of the amount directed to be transferred by such section of this act: *Provided*, That the director of the budget shall calculate and certify the amount of each such decrease prescribed by this subsection (b) to the director of the budget shall deliver of the budget shall deliver a copy of such certification to the director of the budget shall deliver research department.

(c) On June 30, 2010, the amount directed to be transferred by any subsection of any section of this act by the director of accounts and reports from any special revenue fund for any state agency to the state general fund, for the express purpose to reimburse the state

general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency by other state agencies which receive appropriations from the state general fund to provide such services, on June 30, 2010, or as soon thereafter as moneys are available, is hereby decreased by the amount equal to 36% of the amount directed to be transferred by such subsection of such section of this act: *Provided*, That the director of the budget shall calculate and certify the amount of each such decrease prescribed by this subsection (c) to the director of accounts and reports: *Provided*, That, at the same time that such certification is made by the director of the budget to the director of accounts and reports under this subsection (c), the director of the budget shall deliver a copy of such certification to the director of the legislative research department.";

And by renumbering sections accordingly

S Sub for HB 2373 be further amended by motion of Senator Brownlee, on page 55, after line 29, by inserting the following:

"(u) On July 1, 2009, or as soon thereafter as moneys are available, of the \$11,099,830 appropriated for the above agency for the fiscal year ending June 30, 2010, by section 64(c) of 2009 Senate Substitute for House Bill 2354 from the children's initiatives fund in the early childhood block grant account or any other account of the children's initiatives fund, expenditures of \$50,000 shall be made during the fiscal year ending June 30, 2010, to provide training for the diagnosis of autism."

S Sub for HB 2373 be further amended by motion of Senator Huelskemp, on page 81, preceding line 13, by inserting the following:

"Sec. 93. (a) During the fiscal year ending June 30, 2010, subject to any applicable requirements of federal statutes, rules, regulations or guidelines, any expenditures or grants of money by any state agency for family planning services financed in whole or in part from federal title X moneys shall be made subject to the following two priorities: First priority to public entities (state, county, local health departments and health clinics) and if any moneys remain then; second priority to non-public entities which are hospitals or federally qualified health centers that provide comprehensive primary and preventative care in addition to family planning services.

(b) As used in this section "hospitals" shall have the same meaning as defined in K.S.A. 65-425, and amendments thereto, and "federally qualified health center" shall have the same meaning as defined in K.S.A. 65-1669, and amendments thereto."

And by renumbering the remaining sections accordingly

S Sub for HB 2373 be further amended by motion of Senator Hensley, on page 69, following line 31, by inserting the following:

"Sec. 86. (a) The amount directed to be transferred by any subsection of any section of this act by the director of accounts and reports from any special revenue fund for any state agency to the state general fund, for the express purpose to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency by other state agencies which receive appropriations from the state general fund to provide such services, on the effective date of this act, or as soon thereafter as moneys are available, shall be transferred under such subsection of such section of this act on such date or dates and in such amount or amounts as determined by the director of the budget after considering the state agency's cash flow circumstances, as certified to the director of accounts and reports by the director of the budget: *Provided*, That, at the same time that such certification is made by the director of the budget to the director of such section to the director of the budget research department.

(b) The amount directed to be transferred by any subsection of any section of this act by the director of accounts and reports from any special revenue fund for any state agency to the state general fund, for the express purpose to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency by other state agencies which receive appropriations from the state general fund to provide such services, on July 1, 2009, or as soon thereafter as moneys are available, shall be transferred

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under such subsection of such section of this act on such date or dates and in such amount or amounts as determined by the director of the budget after considering the state agency's cash flow circumstances, as certified to the director of accounts and reports by the director of the budget: *Provided*, That, at the same time that such certification is made by the director of the budget to the director of accounts and reports under this subsection (b), the director of the budget shall deliver a copy of such certification to the director of the legislative research department.

(c) The amount directed to be transferred by any subsection of any section of this act by the director of accounts and reports from any special revenue fund for any state agency to the state general fund, for the express purpose to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency by other state agencies which receive appropriations from the state general fund to provide such services, on June 30, 2010, or as soon thereafter as moneys are available, shall be transferred under such subsection of such section of the budget after considering the state agency's cash flow circumstances, as certified to the director of accounts and reports by the director of the budget to the director of accounts and reports by the director of the budget to the director of accounts and reports the director of the budget shall deliver a copy of such certification to the director of the legislative research department.";

And by renumbering sections accordingly

S Sub for HB 2373 be further amended by motion of Senator Teichman, on page 13, following line 5, by inserting the following:

"For the fiscal year ending June 30, 2009 \$1,500,000";

Also on page 13, in line 6, by subtracting \$1,500,000 from the dollar amount and by adjusting the dollar amount in line 6 accordingly

S Sub for HB 2373 be further amended by motion of Senator V. Schmidt, on page 15, by striking all in lines 38 through 41; after line 41, by inserting the following:

"(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Operating expenditures

S Sub for HB 2373 be further amended by motion of Senator V. Schmidt, on page 16, after line 13, by inserting:

"On July 1, 2009, all of the encumbered balance in the land acquisition account of the state general fund in excess of \$100 as of June 30, 2009, is hereby reappropriated to the operating expenditures account of the attorney general—Kansas bureau of investigation for fiscal year 2010."

S Sub for HB 2373 be further amended by motion of Senator Umbarger, on page 3, by striking all in lines 12 through 41;

On page 10, by striking all in lines 20 through 43;

On page 11, by striking all in lines 1 through 21;

On page 12, by striking all in lines 15 through 42;

On page 20, by striking all in lines 7 through 36;

On page 21, by striking all in lines 24 through 43;

On page 22, by striking all in lines 1 through 40;

On page 43, by striking all in lines 37 through 43;

On page 44, by striking all in lines 1 through 25;

And by relettering the subsections accordingly;

On page 55, by striking all in lines 30 through 43;

On page 56, by striking all in lines 1 through 43;

On page 57, by striking all in lines 1 through 25;

And by renumbering sections accordingly;

Also, in the amendment by Senator D. Schmidt which is designated as FAH2373t66 and numbered as 504, in the eighth line of subsection (a) of the section inserted into the bill on

page 69 following line 31, by striking "36%" and inserting "21.5%"; in the seventh line of subsection (b) of the section inserted into the bill on page 69 following line 31, by striking "36%" and inserting "21.5%"; by striking all of subsection (c) of the section inserted into the bill on page 69 following line 31

S Sub for HB 2373 be further amended by motion of Senator Emler, on page 63, in line 23, by adding \$482 to the dollar amount and by adjusting the dollar amount in line 23 accordingly; in line 27, by adding \$162 to the dollar amount and by adjusting the dollar amount in line 27 accordingly; in line 32, by adding \$2,244 to the dollar amount and by adjusting the dollar amount and by adjusting the dollar amount in line 32 accordingly; in line 32, accordingly; in line 34, by adding \$45 to the dollar amount and by adjusting the dollar amount in line 37 accordingly; in line 38, by adding \$45 to the dollar amount amount amount amount in line 37 accordingly; in line 42, by adding \$76 to the dollar amount and by adjusting the dollar amount in line 42 accordingly;

On page 64, in line 3, by adding \$27 to the dollar amount and by adjusting the dollar amount in line 3 accordingly; in line 7, by adding \$72 to the dollar amount and by adjusting the dollar amount in line 7 accordingly; in line 11, by adding \$281 to the dollar amount and by adjusting the dollar amount in line 11 accordingly; in line 16, by adding \$132 to the dollar amount and by adjusting the dollar amount in line 16 accordingly; in line 21, by adding \$17 to the dollar amount and by adjusting the dollar amount in line 16 accordingly; in line 21, by adding \$17 to the dollar amount and by adjusting the dollar amount in line 21 accordingly; in line 25, by adding \$63 to the dollar amount and by adjusting the dollar amount in line 25 accordingly; in line 30, by adding \$16 to the dollar amount and by adjusting the dollar amount in line 30 accordingly; in line 35, by adding \$1,664 to the dollar amount and by adjusting the dollar amount in line 35 accordingly; in line 41, accordingly;

On page 65, in line 2, by adding \$222 to the dollar amount and by adjusting the dollar amount in line 2 accordingly; in line 6, by adding \$14,583 to the dollar amount and by adjusting the dollar amount in line 6 accordingly; in line 12, by adding \$61 to the dollar amount and by adjusting the dollar amount in line 12 accordingly; in line 16, by adding \$11 to the dollar amount and by adjusting the dollar amount in line 12 accordingly; in line 16, by adding \$11 to the dollar amount and by adjusting the dollar amount in line 16 accordingly; in line 21, by adding \$13 to the dollar amount and by adjusting the dollar amount in line 21 accordingly; in line 25, by adding \$29 to the dollar amount and by adjusting the dollar amount in line 25 accordingly; in line 31, by adding \$272 to the dollar amount and by adjusting the dollar amount in line 31 accordingly; in line 35, by adding \$10 to the dollar amount and by adjusting the dollar amount in line 31 accordingly; in line 35, by adding \$10 to the dollar amount and by adjusting the dollar amount in line 35 accordingly; in line 40, by adding \$50 to the dollar amount amount and by adjusting the dollar amount in line 40 accordingly;

On page 66, in line 2, by adding \$61 to the dollar amount and by adjusting the dollar amount in line 2 accordingly; in line 6, by subtracting \$14 from the dollar amount and by adjusting the dollar amount in line 6 accordingly; in line 23, by adding \$15,630 to the dollar amount and by adjusting the dollar amount in line 23 accordingly; in line 28, by adding \$20 to the dollar amount and by adjusting the dollar amount in line 28 accordingly; in line 33, by adding \$27 to the dollar amount and by adjusting the dollar amount in line 33 accordingly;

On page 67, in line 9, by adding \$2,823 to the dollar amount and by adjusting the dollar amount in line 9 accordingly; in line 14, by adding \$4,505 to the dollar amount and by adjusting the dollar amount in line 14 accordingly; in line 26, by adding \$1,496 to the dollar amount and by adjusting the dollar amount in line 26 accordingly; in line 30, by adding \$57 to the dollar amount and by adjusting the dollar amount in line 26 accordingly; in line 30, by adding \$57 to the dollar amount and by adjusting the dollar amount in line 30 accordingly; in line 38, by adding \$19,280 to the dollar amount and by adjusting the dollar amount in line 38 accordingly; in line 42, by adding \$896 to dollar amount and by adjusting the dollar amount in line 42 accordingly;

On page 68, in line 3, by adding \$20 to the dollar amount and by adjusting the dollar amount in line 3 accordingly; in line 14, by adding \$15,339 to the dollar amount and by adjusting the dollar amount in line 14 accordingly; in line 18, by adding \$399 to the dollar amount and by adjusting the dollar amount in line 18 accordingly; in line 23, by adding \$663 to the dollar amount and by adjusting the dollar amount in line 23 accordingly; in line 34, by adding \$4,917 to the dollar amount and by adjusting the dollar amount in line 34 accordingly; in line 38, by adding \$20 to the dollar amount and by adjusting the dollar amount in line 38 accordingly; in line 38 accordingly;

On page 69, in line 1, by adding \$41 to the dollar amount and by adjusting the dollar amount in line 1 accordingly; in line 8, by adding \$4,667 to the dollar amount and by

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adjusting the dollar amount in line 8 accordingly; in line 12, by adding \$32 to the dollar amount and by adjusting the dollar amount in line 12 accordingly; in line 16, by adding \$19 to the dollar amount and by adjusting the dollar amount in line 16 accordingly; in line 24, by adding \$5,079 to the dollar amount and by adjusting the dollar amount in line 24 accordingly; in line 31, by adding \$9,857 to the dollar amount and by adjusting the dollar amount in line 31 accordingly and **S Sub for HB 2373** be passed as amended.

A motion by Senator Pilcher-Cook failed and the following amendment was rejected; on page 81, following line 12, by inserting:

"Sec. 93. From and after July 1, 2010, each school district shall maintain a secure internetbased check register to record the receipts and expenditures of the district. The check register shall be freely available and accessible to the general public.";

By renumbering sections

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

On roll call, the vote was: Yeas 16, Nays 22, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Brownlee, Colyer, Haley, Huelskamp, Kelsey, Lynn, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger, Wagle.

Nays: Barnett, Brungardt, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Kelly, Kultala, Lee, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Bruce, Donovan.

The motion failed and the amendment was rejected.

A motion by Senator Steineger failed and the following amendment was rejected; on page 35, following line 39, by inserting the following:

"(b) The director of accounts and reports shall not make the transfer of 5,000,000 from the state highway fund of the department of transportation to the state affordable airfare fund of the department of commerce which was directed to be made on or after July 1, 2009, by subsection (c)(4) of section 36 of chapter 216 of the 2006 Session Laws of Kansas: *Provided*, That, the provisions of subsection (c)(4) of chapter 216 of the 2006 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect."

A motion by Senator Abrams failed and the following amendment was rejected; on page 61, after line 10, by inserting the following:

"Community correctional conservation camps

For the fiscal year ending June 30, 2010.	\$3,371,324
El Dorado correctional facility-facilities operations	
For the fiscal year ending June 30, 2010	\$907,393
Lansing correctional facility—facilities operations	
For the fiscal year ending June 30, 2010	\$902,699
Norton correctional facility—facilities operations	
For the fiscal year ording two 20, 2010	¢1 647 097

For the fiscal year ending June 30, 2010...... \$1,647,927

(c) In addition to the other purposes for which expenditures may be made by the department of corrections from moneys appropriated to the above agency for fiscal year 2009 or 2010 as authorized by 2009 House Substitute for Substitute for Senate Bill No. 23, Senate Substitute for House Bill No. 2354, or by this or any other appropriation act of the 2009 regular session of the legislature, expenditures shall be made by the secretary of corrections from the moneys appropriated for fiscal year 2009 or 2010 to provide for and facilitate the facilities closure and realignment commission to make a study of the closure and realignment of correctional institutions.";

And by relettering the remaining subsections accordingly;

On page 62, after line 31, by inserting the following:

"(o) On July 1, 2009, the position limitation established for the fiscal year ending June 30, 2010, by section 99(a) of 2009 Senate Substitute for House Bill No. 2354 for the department of corrections is hereby increased from 3,047.70 to 3,113.70."

A motion by Senator Huelskamp failed and the following amendment was rejected; on page 84, after line 41, by inserting the following:

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"Sec. 104. (a) Within 30 days after the effective date of this act, each state agency anticipating receipt of federal funds under the American recovery and reinvestment act of 2009, hereinafter referred to in this section as the "federal act," shall report the following information to the director of the budget and the director of legislative research:

(1) The amount of federal funding the state agency anticipates receiving under the federal act;

(2) the date or dates when the state agency anticipates receipt of moneys under the federal act;

(3) whether the anticipated federal funding is allocated through an existing or new federal program;

(4) current levels of state funding for the state agency that is appropriated, requested or credited to and available in any fund or account appropriated for the state agency that would be impacted positively or negatively by the receipt of moneys under the federal act;

(5) whether additional appropriation authority would be necessary to expend moneys received under the federal act;

(6) whether any additional state employees are necessary to oversee or administer the moneys received under the federal act and, if so, how many full-time equivalent positions would be required;

(7) any requirements under the federal act associated with spending any moneys received under the federal act, including, but not limited to, state matching or cost sharing requirements, percentage limitations and any time requirements regarding expenditure of such moneys;

(8) the time or other conditions under which all or part of the funding ends under the federal act;

(9) a plan detailing how the moneys received under the federal act will be expended and how the state agency will address the absence of such funding after it ends; and

(10) to the extent such information is made available to the state agency, the amount of moneys any units of local government or local educational agencies anticipate receiving under the federal act and the purpose for which such moneys are to be used.

(b) Each state agency shall review and evaluate whether the state agency is eligible for and would request funding under any provision of the federal act. If any state agency determines it is eligible and desires to receive funding under any provision of the federal act, such state agency shall notify the director of the budget and the director of legislative research, within 30 days after the effective date of this act, of such determination and shall provide the following information in conjunction with such notification:

(1) The amount of moneys the state agency desires to receive under the federal act;

(2) each of the titles and sections of the federal act under which the desired moneys are provided;

(3) the requirements and deadline for applying for the desired funding under the federal act;

(4) the requirements associated with the desired funding, including, but not limited to, spending limitations, state matching or cost sharing requirements, percentage limitations and any time requirements regarding expenditure of such funding;

(5) when the funding provided under the federal act would end;

(6) whether additional appropriation authority would be necessary to expend moneys received under the federal act;

(7) whether any additional state employees are necessary to oversee or administer the moneys received under the federal act and, if so, how many full-time equivalent positions would be required;

(8) the number of potential jobs created by the use of any moneys received under the federal act, including all rationales and supporting data justifying the state agency's estimate of the number of jobs to be created; and

(9) a plan detailing how the funds received under the federal act will be expended and how the state agency will address the absence of funding after the funding provided under the federal act ends.

(c) Each state agency that applies for and receives or is approved to receive moneys under the federal act shall notify the director of the budget and the director of legislative research immediately of such receipt or approval and shall include such related information with such notification as may be requested by the director of the budget. Each such state agency expending moneys received under the federal act shall make such expenditures in accordance with the provisions of appropriation acts in compliance with the provisions of applicable state statutes.

(d) Within 60 days after the effective date of this act, the director of legislative research shall publish on the website for the legislative research department the following information received from state agencies: (1) The amount of moneys the state agency has received or is approved to receive under the federal act; (2) the dates when such moneys are received and when such funding would end, as the case may be; (3) a general description of the purpose for which the moneys are to be expended; and (4) to the extent such information is made available, the information required by paragraphs (1), (2) and (3) as they apply to units of local government or local educational agencies receiving moneys under the federal act. Such information shall be presented in a form whereby persons viewing the website can easily discern which agency has received or is approved to receive moneys under the federal act and purpose for which those moneys are to be used.

(e) Any individual employed by a state agency in connection with or as a result of funding received under the federal act shall be a temporary employee and such employment shall not continue beyond the expenditure of the moneys received under the federal act.

(f) The American recovery and reinvestment act advisory group that was established by the governor, hereinafter referred to in this section as the advisory group, shall review all state agency information submitted to the director of the budget under this section and shall submit a written report of its findings and non-binding recommendations to the governor, president of the senate, speaker of the house of representatives, vice-president of the senate, speaker pro tem of the house of representatives, majority leader of the senate, majority leader of the house of representatives, minority leader of the senate, majority leader of the committee on appropriations of the committee on ways and means of the senate, chairperson of the committee on appropriations of the house of representatives, director of the budget, and director of legislative research within 60 days after the effective date of the federal act. The findings and recommendations of the advisory group shall include:

(1) Which funds under the federal act the governor should request or approve state agency requests for, with priority given to funds that are allocated under the federal act for one-time projects or reducing the need for expenditures from the state general fund dollars in the fiscal years ending June 30, 2010, or June 30, 2011, without the need for future, ongoing state expenditures;

(2) potential impacts or savings to the state general fund which may result from the receipt of the recommended funds under the federal act;

(3) positive and negative impacts to state agency budgets for the fiscal years ending June 30, 2010, June 30, 2011, and June 30, 2012, if the recommended funding is requested and received under the federal act;

(4) whether state agencies have adequate appropriation authority for expenditure of the funds recommended to be requested and received under the federal act; and

(5) any other recommendations or information as the governor may request.

(g) Records containing information submitted by state agencies to the director of the budget and the recommendations and findings of the advisory group are public records and subject to the provisions of the open records act.

(h) Nothing in this section shall prohibit local governments, local educational agencies as defined in the federal act, or any eligible entity as determined under the federal act from seeking federal funding under the federal act.

(i) As used in this section, "state agency" means any state office or officer, department, board, commission, institution, bureau or any agency, division or unit within any office, department, board, commission or other state authority.";

Any by renumbering the remaining section accordingly

A motion by Senator Masterson failed and the following amendment was rejected; on page 3, by striking all in lines 12 through 41;

And by renumbering the remaining sections accordingly;

On page 9, by striking all in lines 3 through 43;

By striking all on pages 10 and 11; On page 12, by striking all in lines 1 through 8; And by renumbering the remaining sections accordingly; Also on page 12, by striking all in lines 15 through 42; On page 14; by striking all in lines 6 through 33; On page 15, by striking all in lines 9 through 35; also by striking all in lines 42 and 43; On page 16, by striking all in lines 1 through 33; And by renumbering the remaining sections accordingly; On page 18, by striking all in lines 31 through 43; By striking all on pages 19 through 21; On page 22, by striking all in lines 1 through 40; And by renumbering the remaining sections accordingly; On page 23, by striking all in lines 4 through 43; By striking all on pages 24 and 25; On page 26, by striking all in lines 1 through 18; And by relettering the remaining subsection accordingly; And by renumbering the remaining sections accordingly; On page 27, by striking all in lines 19 through 43; On page 28, by striking all in lines 1 through 7; And by renumbering the remaining sections accordingly; On page 29, by striking all in lines 17 through 43; On page 30, by striking all in lines 1 through 31; And by renumbering the remaining sections accordingly; On page 31, by striking all in lines 2 through 28; On page 36, by striking all in lines 13 through 42; By striking all on pages 37 and 38; On page 39, by striking all in lines 1 through 9; And by renumbering the remaining sections accordingly; Also on page 39, by striking all in line 43; By striking all on pages 40 through 42; And by renumbering the remaining sections accordingly; On page 43, by striking all in lines 21 through 43; On page 44, by striking all in lines 1 through 41; And by relettering the remaining subsection accordingly: On page 55, by striking all in lines 30 through 43; By striking all on pages 56 and 57; On page 58, by striking all in lines 1 through 34; And by renumbering the remaining sections accordingly; Also on page 58, by striking all in lines 37 through 43; On page 59, by striking all in lines 1 through 23; And by relettering the remaining subsection accordingly; And further, I move to amend Senate Substitute for House Bill No. 2373, as amended by Senate committee of the whole, on motion of Senator Emler, on page 35, after line 7, by striking subsections (o), (p) and (q) Upon the showing of five hands a roll call vote was requested. On the roll call, the vote was: Yeas 17, Nays 20, Present and Passing 2, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Huelskamp, Kelsey, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger, Taddiken, Wagle.

Nays: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, McGinn, Morris, Owens, Reitz, Schmidt D, Schodorf, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Lynn, Schmidt V.

Absent or Not Voting: Donovan.

The motion failed and the amendment was rejected.

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EXPLANATION OF VOTE

MR. PRESIDENT: Many state agencies are fee funded and do not receive any funding from the state. Fees supporting these agencies are collected from the industry which the agency regulates for a specific purpose. Raiding those funds is a violation of the trust between the fee-payer and the Kansas Legislature. Referring to fee fund sweeps as "spending cuts" is an insult.

It is more appropriate to call this measure a massive, back-door tax increase. Attorney General Opinion 2002-45 said it best, "If an assessment so exceeds the cost of regulation that it is apparent the Legislature is using it as a general revenue raising measure, the overage cannot stand on police power authority. If the assessment is in fact a revenue raising measure, it must be analyzed as such, which may include a determination as to whether it meets Commerce Clause and Equal Protection requirements, as well as any state constitutional requirements applicable to the type of tax it is."

The Legislature should not take what does not belong to it. I regard fee sweeps of this magnitude as being unconstitutional, and I flatly refuse to participate in or validate their existence. I vote ves on the amendment.—TERRY BRUCE

A motion by Senator Masterson failed and the following amendment was rejected; on page 17, in line 8, by striking all after "fund"; by striking all in lines 9 through 16; in line 17, by striking all before the period;

On page 35, after line 7, by inserting:

"(o) In addition to the other purposes for which expenditures may be made by the department of revenue from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2009 or fiscal year 2010 as authorized by chapter 131 or chapter 184 of the 2008 Session Laws of Kansas or by 2009 House Substitute for Substitute for Senate Bill No. 23, by 2009 Senate Substitute for House Bill No. 2354, or by this or other appropriation act of the 2009 regular session of the legislature, expenditures may be made by the department of revenue from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2009 or fiscal year 2010 to provide for the secretary of revenue to enter into settlements to equitably resolve any assessment or other disputed matters of tax liability arising from an audit, or any portion of any such assessment, or other matter or tax liability, which is pending in the administrative appeals process before the secretary of revenue, or the secretary's designee, pursuant to K.S.A. 79-3226 or 79-3610, and amendments thereto, is pending before the state court of tax appeals, or is pending in the judicial review process before any state or federal district or appellate court, pursuant to settlement agreements which are hereby authorized to be entered into during fiscal year 2009 or fiscal year 2010 by the secretary of revenue in the exercise of express and implied powers of the secretary of revenue under the statutes and laws of Kansas, including the authority of the secretary of revenue to resolve the amount of tax, penalty or interest due in any such settlement agreement, which are hereby recognized by the legislature: Provided, That all moneys received by the department of revenue pursuant to such settlements of such assessments or other disputed matters of tax liability shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto: And provided further, That, upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.";

On page 43, in line 12, by subtracting \$81,940 from the dollar amount and by adjusting the dollar amount in line 12 accordingly;

On page 69, after line 31, by inserting:

"Sec. 86. (a) On July 1, 2009, of the amount of each appropriation or reappropriation for a state agency for the fiscal year ending June 30, 2010, made by 2009 Senate Substitute for House Bill No. 2354 from the state general fund, the sum equal to 0.75% of such appropriation or reappropriation, which is not exempt, is hereby lapsed. The following are exempt from and shall not be reduced by such lapsing provision: (1) Any item of appropriation or reappropriation for debt service for payments pursuant to contractual bond obligations, and (2) any item of appropriation or reappropriation from the state general fund for the fiscal year ending June 30, 2010, for the juvenile justice authority, department of social and rehabilitation services, Kansas health policy authority, or the department on aging which are required to meet caseload obligations under the state medicaid plan including nursing facilities, general medical, targeted case management, mental health, community supports and services, or addiction and prevention services or for the department of social and rehabilitation services to meet caseload obligations for nursing facilities for mental health, general assistance, temporary assistance for 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 clause (2): *Provided*, That, at the same time that such certification is made by the director of the budget to the director of accounts and reports under this clause (2), the director of the budget shall deliver a copy of such certification to the director of the legislative research department.";

And by renumbering the remaining sections accordingly

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

On roll call, the vote was: Yeas 17, Nays 22, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Barnett, Brownlee, Bruce, Colyer, Huelskamp, Kelsey, Lynn, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger, Taddiken, Wagle.

Nays: Apple, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Donovan.

The motion failed and the amendment was rejected.

A motion by Senator Umbarger to amend S Sub for HB 2373 was withdrawn.

Two motions by Senator Masterson to amend S Sub for HB 2373 were withdrawn

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and S Sub for HB 2373 was advanced to Final Action and roll call.

S Sub for HB 2373, An act making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, and June 30, 2014, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2008 Supp. 12-5256, as amended by section 136 of 2009 Senate Substitute for House Bill No. 2354, 76-7,107, as amended by section 139 of 2009 Senate Substitute for House Bill No. 2354, 79-2978, as amended by section 88 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-2979, as amended by section 89 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-3425i, as amended by section 144 of 2009 Senate Substitute for House Bill No. 2354, 79-34,156, as amended by section 91 of 2009 House Substitute for Substitute for Senate Bill No. 23, and 79-4801, as amended by section 145 of 2009 Senate Substitute for House Bill No. 2354, and repealing the existing sections; also repealing section 102 of 2009 Senate Substitute for House Bill No. 2354, 79-2978, as amended by section 142 of 2009 Senate Substitute for House Bill No. 2354, and 79-2979, as amended by section 143 of 2009 Senate Substitute for House Bill No. 2354.

On roll call, the vote was: Yeas 21, Nays 17, Present and Passing 0, Absent or Not Voting 2.

Yeas: Apple, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Vratil, Wysong.

Nays: Abrams, Barnett, Brownlee, Bruce, Colyer, Huelskamp, Lynn, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger, Taddiken, Umbarger, Wagle.

Absent or Not Voting: Donovan, Kelsey.

The substitute bill passed, as amended.

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EXPLANATION OF VOTE

MR. PRESIDENT: I vote "no" on **Senate Sub for HB 2373.** This budget bill does not close the gap between revenue and expenditures which is setting us up for a tax increase. I cannot support an increased tax burden on Kansans during such a serious recession.—KARIN BROWNLEE.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Wednesday, May 6, 2009.

Journal of the Senate

SIXTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS Wednesday, May 6, 2009—10:00 a.m.

The Senate was called to order by Vice President John Vratil. The roll was called with thirty-eight senators present. Senators Masterson and Wysong were excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

All governing authorities are established by God, According to the Apostle Paul. They are also Your servants to do good, And are deserving of respect by all. (Romans 13:1-5)

Too often we're guilty, O God, Of rebelling against those who serve. We gripe and complain and never pray For the kind of treatment they deserve.

I've said it before, and I'll say it again, I wish those of us who complain Would have to walk in their shoes And experience some of their pain.

Governing authorities constantly experience That old saying that is still true yet: "When I'm right, no one remembers, When I'm wrong, no one forgets."

The best thing we can do for them, Which we should be doing all along; Is to pray a lot more than we criticize, Whether they are right or wrong.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 339, An act concerning energy; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 19-101a, 55-1,117, 65-3012 and 66-104d and K.S.A. 2008 Supp. 65-3005, 65-3008a, 66-1,184, 74-99d07 and 74-99d14 and repealing the existing sections; also repealing K.S.A. 19-101a, as amended by section 7 of 2009 Senate Bill No. 336, and 19-101m, by Committee on Federal and State Affairs.

REFERRED TO COMMITTEE

Vice President Vratil referred SB 339 to the Committee on Utilities.

CHANGE OF CONFERENCE

The Vice President announced the appointment of Senators Emler and Vratil as members of the Conference Committee on **H Sub for SB 168** to replace Senators V. Schmidt and Apple.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Haley and Faust-Goudeau introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1888-

A RESOLUTION recognizing the observance of an annual Juneteenth Day.

WHEREAS, June 19th, the oldest known celebration of the ending of slavery, is known in many places as Juneteenth Day; and

WHEREAS, News of the end of slavery did not reach frontier areas of the United States for more than 2 years after President Lincoln's Emancipation Proclamation of January 1, 1863, and months after the conclusion of the Civil War, and

WHEREAS, On June 19, 1865, Union soldiers led by Major General Gordon Granger arrived in Galveston, Texas, with news that the Civil War had ended and that the enslaved were free; and

WHEREAS, News of the end of slavery did not have the same impact on Kansas because Kansas was established as and remained a "free" state; and

WHEREAS, Many African-Americans continue the tradition of celebrating Juneteenth as inspiration and encouragement for future generations and for more than 140 years, Juneteenth Day celebrations have been held to honor African-American freedom while encouraging self-development and respect for all cultures; and

WHEREAS, Although Juneteenth Day is beginning to be recognized as a national, and even global event, the history behind the celebration should not be forgotten; and

WHEREAS, The faith and strength of character demonstrated by former slaves remains an example for all people of the United States, regardless of background, religion or race: Now THEREFORE,

Be it resolved by the Senate of the State of Kansas: That we recognize the historical significance of Juneteenth; support the continued celebration of Juneteenth to provide an opportunity for the people of the State of Kansas to learn more about the past to better understand the experiences that have shaped the nation and encourage the people of the State of Kansas to observe Juneteenth Day with appropriate ceremonies, activities and programs; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Senator David Haley.

On emergency motion of Senator Faust-Goudeau SR 1888 was adopted unanimously.

REMARKS

MR. VICE PRESIDENT:

Although Juneteenth Day is beginning to be recognized as a National and even a Global Event—the history behind the celebration should not be forgotten.

Mr. Vice President—I know I won't forget the foresight into the future of President Lincoln's Emancipation Proclamation—because I know it had a direct impact on my being able to stand here today as the first African American female to serve in the Kansas Senate in our state's history. So I will be forever grateful for the celebration and I'd like to thank Senator David Haley for allowing me to co-sponsor this resolution with him—OLETHA FAUST-GOUDEAU

On motion of Senator D. Schmidt, the Senate recessed until 4:00 p.m.

AFTERNOON SESSION

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

CHANGE OF REFERENCE

The President withdrew **HB 2299** from the Committee on **Assessment and Taxation**, and referred the bill to the Committee on **Transportation**.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to Senate Substitute for HB 2295.

The House adopts the conference committee report on SB 171.

The following bills were stricken from the Calendar in accordance with House Rule 1507: House Substitute for SB 31; SB 37; Substitute SB 89; SB 105; SB 119; SB 139; SB 159; House Substitute for SB 162; SB 183, effective on March 30, 2009.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2060**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

THOMAS C. OWENS DEREK SCHMIDT Conferees on part of Senate

PAT COLLOTON JOE PATTON MELODY MCCRAY-MILLER Conferees on part of House

On motion of Senator Owens, the Senate adopted the conference committee report on **HB 2060**, and requested a new conference committee be appointed.

The President appointed Senators Owens, D. Schmidt and Kelly as a 4th Conference Committee on the part of the Senate on **HB 2060**.

REPORTS OF STANDING COMMITTEES

Committee on Natural Resources recommends HB 2283 be amended on page 1, after line 13, by inserting:

"New Section 1. Not less than 60 days before the effective date of any ordinance annexing land into the boundaries of any city:

(a) The city shall give written notice to any rural water district organized pursuant to K.S.A. 82a-612 et seq., and amendments thereto, in whose territory the land or any portion thereof is located of the city's intent to annex such land; and

(b) the notice shall contain the description of the land to be annexed and the city's plan for the provision of water service to the land being annexed.

New Sec. 2. Following annexation of rural water district territory by a city, the city and the district may contract for the district to provide water service to all or certain portions of the annexed area. If the agreement includes a provision for the payment of a franchise fee to the city, such agreement shall be subject to the provisions of K.S.A. 12-2001 et seq., and amendments thereto.

New Sec. 3. (a) Following annexation, the rural water district shall remain the water service provider to the annexed area unless the city gives written notice designating a different supplier. If the city designates a different supplier, the city shall purchase the property, facilities, improvements and going concern value of the facilities of the district located within the territory annexed by the city. If an agreement for the purchase of such property,

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facilities, improvements and going concern value of the facilities of the district annexed by the city is not executed within 90 days after delivery of the notice designating a different supplier, the city and the rural water district in good faith shall engage in mediation. Unless an agreement is executed, no change in water service provider shall occur and no appraisers shall be appointed until more than 120 days after delivery of the notice of intent to change the water supplier and the mediation has been terminated.

(b) If the district and the city are unable to reach agreement on the reasonable value for such property, facilities, improvements and going concern value of the facilities of the district, then the reasonable value shall be determined in the following manner:

(1) The district and the city shall each select one qualified appraiser and the two appraisers so selected shall then select a third appraiser for the purpose of conducting an appraisal to determine reasonable value of the property, facilities, improvements and going concern value of the facilities of the district annexed by the city. The appraisers shall consider all elements of value, employing any method of valuation the appraisers deem appropriate and shall specifically consider the following factors in determining reasonable value:

(A) Whether any property of the district is rendered useless or valueless to the district;

(B) the amount of damage to property remaining in the ownership of the district following annexation;

(C) impact on the existing indebtedness of the district and such district's ability to repay that debt;

(D) the value of the service facilities of the district located within the area in question;

(E) the amount of any expenditures for planning, design or construction of service facilities outside the incorporated or annexed area that are allocable to service to the area in question;

(F) the amount of the district's contractual obligations allocable to the area in question;

(G) any demonstrated impairment of service or increase of cost to consumers of the district remaining after the annexation and the impact on future revenues lost from existing customers;

(H) any necessary and reasonable legal expenses and professional fees;

(I) any factors relevant to maintaining the current financial integrity of the district; and (J) any other relevant factors.

(2) The appraisers shall hear such evidence as the appraisers deem appropriate and shall make a written summary of findings and conclusions. The agreement or decision of at least two of the three appraisers shall be the fair market value presented to the city for payment and the district for acceptance.

(3) If either the district or the city is dissatisfied with the decision of the appraisers, then the district or the city may appeal within 30 days such award to the district court. Such appeal shall be heard de novo by the court without a jury.

(c) The compensation required by this section shall be paid to the district whether or not the city actually utilizes the facilities of the district for the delivery of water to property within the city and shall be paid at a time not later than 120 days following the date upon which the fair market value of the facilities are certified to the city and to the district, or at such later date as may be mutually agreed upon by the city and the district or as may be determined by the district court.

(d) In any event, the district may elect to retain facilities located within the city used for transmission of water, provided that the district use those facilities to continue to supply water service to benefit units outside the city. The district shall not receive compensation for facilities it elects to retain.

(e) Except as otherwise provided, nothing in this section shall be construed as limiting the authority of a city to select water service suppliers to areas within the city limits, or to limit the authority of a city to adopt and enforce regulations for the operation of a water service supplier, including, but not limited to, standards of water quality, classification of water customers, capacity of water system, water system connections to sanitary sewer systems, rates and billing practices and other regulations for protection of the public health, safety and welfare.

(f) In the event that a district will no longer be the water supplier to land as a result of annexation and notice pursuant to subsection (a), the district shall continue to provide such

service until the city gives notice of its assumption of responsibility for service, designating the date that the service shall transfer to the supplier designated by the city. The district and the city shall cooperate as necessary to minimize the inconvenience to water customers as a result of the transfer. The city shall give written notice to each customer of the district for whom water service is being transferred specifying the name and address of the new supplier, the effective date of the transfer, the reason for the transfer and a schedule of applicable rates. The district shall not discontinue or limit service to customers who were supplied water by the district at the time of annexation during the period of negotiations unless such customer has violated district bylaws or rules and regulations.

(g) Following the transfer of water service from the district to the city, the annexed land, or amount of such land for which water service has been transferred to the city, shall be deleted from the territory of the district and all benefit units attached to land located therein shall be canceled without compensation. Notice of such deletion of territory shall be provided to the county clerk and the chief engineer of the division of water resources of the department of agriculture.

Sec. 4. K.S.A. 2008 Supp. 82a-612 is hereby amended to read as follows: 82a-612. As used in this act, unless the context clearly requires otherwise:

(a) "District" means a rural water district organized pursuant to this act;

(b) "board" means the governing body of a district;

(c) the terms "board of county commissioners" and "county clerk" shall mean, respectively, the board of county commissioners and county clerk of the county in which the greatest portion of the territory of any existing or proposed rural water district is located;

(d) "participating member" means an individual, firm, partnership, association or corporation which owns land located within a district and:

(1) Which has subscribed to one or more benefit units of such district; or

(2) which is charged a franchise fee for water service which is paid, either directly or indirectly through another water provider, to such district;

(e) "chief engineer" means the chief engineer of the division of water resources, Kansas department of agriculture.";

And by renumbering the remaining sections accordingly;

Also on page 1, in line 34, after the period, by inserting: "(d)":

Also on page 1, by striking all in lines 35 through 38 and inserting: "make specific written findings of fact and conclusions determining whether the lands requested to be released cannot be economically or adequately serviced by the facilities of the district and whether such release would be in the best interests of the landowner and the district. The findings and conclusions shall be based upon the preponderance of evidence presented to the board. In determining whether to grant the petition for release, the board's considerations shall be based on the following factors:";

On page 2, in line 19, by striking "a fair profit" and inserting "adequate compensation"; in line 38, after "its" by inserting "written"; also in line 38, after "findings" by inserting "and conclusions"; in line 39, after "such" by inserting "written"; also in line 39, after "findings" by inserting "and conclusions"; in line 40, by striking "Any" and inserting "Except as provided in subsection (f), any";

On page 3, after line 2, by inserting:

"(f) If the district denies the landowner's petition for release because such release would not yield adequate compensation to the district, once such release is denied, the district and the landowner shall determine the amount of compensation sufficient to enable the district to be adequately compensated from the release in the following manner:

(1) The district and the landowner shall each select one qualified appraiser and the two appraisers so selected shall then select a third appraiser for the purpose of conducting an appraisal to determine the amount of compensation sufficient to enable the district to be adequately compensated from the release. The appraisers shall consider all elements of value, employing any method of valuation the appraisers deem appropriate and shall specifically consider the following factors in determining reasonable value:

(A) Whether any property of the district is rendered useless or valueless to the district;

(B) the impact on the existing indebtedness of the district and such district's ability to repay that debt;

(C) the value of the service facilities of the district located within the area in question;

(D) the amount of the district's contractual obligations allocable to the area in question;

(E) any demonstrated impairment of service or increase of cost to consumers of the district remaining after the release and the impact on future revenues lost from existing customers;

(F) any necessary and reasonable legal expenses and professional fees;

(G) any factors relevant to maintaining the current financial integrity of the district; and (H) any other relevant factors.

(2) The appraisers shall hear such evidence as the appraisers deem appropriate and shall make a written summary of findings and conclusions. At least two of the three appraisers shall agree as to the amount of compensation owed by the landowner to the district and shall require such payment from the landowner to the district for acceptance.

(3) If either the district or the landowner is dissatisfied with the decision of the appraisers, then the district or the landowner may appeal within 30 days such award to the district court. Such appeal shall be heard de novo by the court without a jury.";

Also on page 3, in line 3, by striking "(f)" and inserting "(g)"; after line 8, by inserting the following:

"Sec. 6. The provisions of sections 1 through 5 shall be part of and supplemental to the Kansas rural water district act.

Sec. 7. K.S.A. 82a-1036 is hereby amended to read as follows: 82a-1036. Whenever In a groundwater use area which is located within the boundaries of an existing groundwater management district or districts, only when a groundwater management district recommends the same or whenever a petition signed by not less than three hundred (300)-300 or by not less than five percent (5%) 5% of the eligible voters of a groundwater management district, whichever is less, is submitted to the chief engineer, the chief engineer shall initiate, as soon as practicable thereafter, proceedings for the designation of a specifically defined area within such district or districts as an intensive groundwater use control area. The chief engineer upon his or her such chief engineer's own investigation may initiate such proceedings whenever said such chief engineer has reason to believe that any one or more of the following conditions exist in a groundwater use area which is located outside the boundaries of an existing groundwater management district: (a) Groundwater levels in the area in question are declining or have declined excessively; or (b) the rate of withdrawal of groundwater within the area in question equals or exceeds the rate of recharge in such area; or (c) preventable waste of water is occurring or may occur within the area in question; (d) unreasonable deterioration of the quality of water is occurring or may occur within the area in question; or (e) other conditions exist within the area in question which require regulation in the public interest.";

And by renumbering the remaining sections accordingly;

Also on page 3, in line 9, after "K.S.A." by inserting "12-527 and 82a-1036 and K.S.A."; also in line 9, after "Supp." by inserting "82a-612 and"; also in line 9, by striking "is" and inserting "are";

In the title, in line 9, by striking "rural water districts" and inserting "water"; also in line 9, by striking all after the semicolon; in line 10, by striking all before "amending"; also in line 10, before "K.S.A." by inserting "K.S.A 82a-1036 and" also in line 10, after "Supp." by inserting "82a-612 and"; in line 11, by striking "section" and inserting "sections; also repealing K.S.A. 12-527"; and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2369**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2369," as follows:

"SENATE Substitute for HOUSE BILL No. 2369 By Committee on Utilities

"AN ACT concerning energy; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 19-101a, 55-1,117, 65-3012 and 66-104d and K.S.A. 2008 Supp. 65-3005, 65-3008a, 66-1,184, 74-99d07 and 74-99d14 and repealing the existing sections; also repealing K.S.A. 19-101a, as amended by section 7 of 2009 Senate Bill No. 336, and 19-101m."; and the substitute bill be passed.

On motion of Senator D. Schmidt the Senate adjourned until $9{:}00$ a.m., Thursday, May 7, 2009.

Journal of the Senate

SIXTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, May 7, 2009—9:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-nine senators present. Senator Haley was excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

On this National Day of Prayer we recall the instructions You gave King Solomon for Israel in the 10th century B.C.

"If My people, who are called by My name, will humble themselves and pray and seek My face and turn from their wicked ways, then will I hear from heaven and will forgive their sin and will heal their land."

Four conditions for forgiveness For people called Your Name: Humility, Prayer, Diligence, Behavior with no shame:

If we obey Your instructions, You will hear our appeal; Forgiveness will be ours And our nation shall be healed.

And for that we thank You in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1889-

A RESOLUTION congratulating the Johnson County Community College men's basketball team.

WHEREAS, The Johnson County Community College men's basketball team captured the 2009 NJCAA Division II National Championship by defeating Kirkwood Community College by a score of 63-49 at Mary Miller Gymnasium in Danville, Illinois; and

WHEREAS, This national championship is the second title for the JCCC Cavaliers, having also won the championship in 2001; and

WHEREAS, The Cavaliers have been expertly led throughout the season by 2009 National Coach of the Year, Head Coach Mike Jeffers; and

WHEREAS, The Cavaliers focused on defense to key their championship run, holding their opponents to an average of 55.7 points per game and a shooting percentage of .378 percent; and

WHEREAS, The Cavaliers were led in scoring by tournament Most Valuable Player Nafis Ricks, who led the Cavaliers with 21 points in the final against Kirkwood and finished the tournament averaging 16.3 points; and

WHEREAS, In addition to Nafis Ricks, Kenny Moore and Jared Henry were selected to the all-tournament team; and

WHEREAS, Despite injuring his hand in the opening round of the tournament, Kenny Moore refused to quit and continued to play at a high level, saying that "Nothing was going to stop me. I had never won a championship before I came to JCCC. This is the best move in my life coming to JCCC"; and

WHEREAS, The gutsy performance by Kenny Moore, and every player's focus on team defense, indicates the Cavaliers' level of commitment and determination to succeed: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Johnson County Community College men's basketball team and Head Coach Mike Jeffers for winning the 2009 NJCAA National Championship and that we wish them continued success; and

Be it further resolved: That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator David Wysong.

On emergency motion of Senator Wysong SR 1889 was adopted unanimously.

Senator Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1890-

A RESOLUTION congratulating the Johnson County Community College women's half-marathon team.

WHEREAS, On November 22, 2008, the Johnson County Community College women captured the National Junior College Athletic Association (NJCAA) Half-Marathon National Championship; and

WHEREAS, On the roads and trails that wove through Shawnee Mission Park and Mill Creek Streamway Park, the JCCC women's team battled wind-chill temperatures in the high teens and a field of 185 runners representing 27 teams to capture the women's championship; and

WHEREAS, In winning this year's half-marathon championship, the Johnson County women's team won their fourth team title in the six-year history of the event; and

WHEREAS, Johnson County had two of the top six runners in the final standings with sophomore Temer Yimer placing third with a time of 1:25:08 and sophomore Francis Gipson placing fourth with a time of 1:27:10; and

WHEREAS, The history of success for the Johnson County Community College women's team is particularly impressive considering that training and conditioning for long-distance running competitions like a half-marathon is grueling, requiring incredible levels of dedication and hard-work: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Johnson County Community College women's half-marathon team for winning its fourth NJCAA Half-Marathon National Championship in six years and that we wish them all continued success; and

Be it further resolved: That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator David Wysong.

On emergency motion of Senator Wysong SR 1890 was adopted unanimously.

Senator Wysong introduced the Johnson County Community College Women's Half Marathon Team: Francis Gipson, Temer Yimer, Heather Kochie, Emily Crews, Sarah Stark, Kayla Harris, Haley Snow, Roxanna Cabrera and Renae Dupree. Also introduced were Carl Heinrich, Director of Athletics and Coaches Mike Bloemker and Brian Batliner.

Senator Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1891-

A RESOLUTION commemorating the 40th anniversary of the founding of Johnson County Community College.

WHEREAS, In 1969, voters approved a \$12.9 million bond issue to buy and build a permanent campus on the present site of Johnson County Community College; and

WHEREAS, Later in 1969, the college was granted correspondent status by the North Central Association of Colleges and Schools and started classes on September 4 at the temporary campus headquartered at Merriam Elementary School. On September 11, the college announced it could not accept any more students because all classes were filled with an enrollment of 1,380 students. In 1970, construction began on the new campus at College Boulevard and Quivira Road; and

WHEREAS, In 1973, the college was fully accredited by the Kansas State Department of Education and by the North Central Association of Colleges and Schools in 1975. Over the years, JCCC has been granted full accreditation at each review and is now accredited through 2011; and

WHEREAS, In 1988, JCCC entered into a unique agreement with Burlington Northern Santa Fe Railroad and built the Industrial Technical Center on campus to house BNSF's national training programs; and

WHEREAS, Today, more than 19,000 credit students and 15,000 continuing education students enroll at JCCC each semester. The campus now holds 20 buildings with full-time faculty and staff of more than 900 and another 1,600 employees working part-time. JCCC offers a full range of undergraduate credit courses consistent with the first two years of most college curricula and has more than 50 one and two-year career and certificate programs to prepare students to enter the job market; and

WHEREAS, Johnson County Community College has become the state's third-largest institution of higher education and remains a board member of the prestigious League for Innovation in the Community College; and

WHEREAS, Throughout the 40 years of JCCC's service to Kansas, it has made a major and long-lasting impact on the education of Kansans and has been a great benefit to the Kansas work force: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we commemorate the 40th anniversary of the founding of Johnson County Community College and that we recognize the many contributions it has made to Kansas; and

Be it further resolved: That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator David Wysong.

On emergency motion of Senator Wysong SR 1891 was adopted unanimously.

Senator Wysong introduced Terry Calaway, President of Johnson County Community College, upon the 40th anniversary of the college.

REPORT ON ENROLLED BILLS

SR 1886, SR 1887, SR 1888, SR 1889, SR 1890, SR 1891 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 7, 2009.

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

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

The House not adopts the conference committee report on **Senate Substitute for HB 2072**, requests a conference and appoints Representatives Schwartz, Shultz and Flaharty as second conferences on the part of the House.

The House adopted the conference committee report to agree to disagree on **HB 2060** and has appointed Representatives Colloton, Patton and McCray-Miller as fourth conferees on the part of the House.

The House adopts the conference committee report on HB 2267.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 171; HB 2158, HB 2162.**

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 171**, 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 amendments, as follows:

On page 1, by striking all in lines 15 through 43;

By striking all of pages 2 through 5 and inserting in lieu thereof the following:

"Section I. K.S.A. 25-1218 is hereby amended to read as follows: 25-1218. (a) The secretary of state shall prescribe the form of official federal services absentee ballots. Such ballots shall provide for voting for all officers, other than precinct committeeman and committeewoman, for whom the voter would otherwise be entitled to vote and shall also provide for voting on any proposed amendment to the constitution of the state of Kansas and any other and on any proposition or question which is to be submitted to a vote of the qualified electors of the state at large for which the voter would otherwise be entitled to vote. Such ballots shall be uniform in size and in style of type, and the type and paper shall conform shall cause to be prepared and printed such numbers of ballots as may be appropriate for carrying out the provisions of this act.

(b) Such ballots shall contain the title of each office to be voted for, followed by the name and address of each nominated candidate for each office, the party or independent body nominating such candidate, a designation of the political subdivision to be represented, and a blank space for writing in the name of any other person for whom the voter desires to vote, except that. Except for precinct committee men and committee women no such blank space shall be printed on the primary ballot following the title of any office for which there is a candidate.

Sec. 2. K.S.A. 2008 Supp. 25-1124 is hereby amended to read as follows: 25-1124. (a) Upon receipt of the advance voting ballot, the voter shall cast such voter's vote as follows: The voter shall make a cross or check mark in the square or parentheses opposite the name of each candidate or question for whom the voter desires to vote. The voter shall make no other mark, and shall allow no other person to make any mark, upon such ballot. If the advance voting ballot was transmitted by mail, the voter personally shall place the ballot in the ballot envelope bearing the same number as the ballot and seal the envelope. The voter shall complete the form on the ballot envelope and shall sign the same. Except as provided by K.S.A. 25-2908, and amendments thereto, the ballot envelope shall be mailed or otherwise transmitted to the county election officer. If the advance voting ballot was transmitted to the county election officer or at a satellite advance voting site, the voter may deposit such ballot into a locked ballot box without an envelope.

(b) Any sick, physically disabled or illiterate voter who is unable to apply for or mark or transmit an advance voting ballot, may request assistance by a person who has signed a statement required by subsection (d) in applying for or marking an advance voting ballot.

(c) Any voted ballot may be transmitted to the county election officer by the voter or by another person upon request of *designated in writing by* the voter. Any such voted ballot shall be transmitted to the county election officer before the close of the polls on election day.

(d) The county election officer shall allow a person to assist a sick, physically disabled or illiterate voter in applying for or marking an application or advance voting ballot, provided

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a written statement is signed by the person who renders assistance to the sick, physically disabled or illiterate voter and submitted to the county election officer with the application or ballot. The statement shall be on a form prescribed by the secretary of state and shall contain a statement from the person providing assistance that the person has not exercised undue influence on the voting decision of the sick, physically disabled or illiterate voter and that the person providing assistance has completed the application or marked the ballot as instructed by the sick, physically disabled or illiterate voter.

(e) Any person assisting a sick, physically disabled or illiterate voter in applying for or marking an advance voting ballot who knowingly and willfully fails to sign and submit the statement required by this section or who exercises undue influence on the voting decision of such voter shall be guilty of a severity level 9 nonperson felony.

Sec. 3. K.S.A. 2008 Supp. 25-1128 is hereby amended to read as follows: 25-1128. (a) No voter shall mark or transmit to the county election officer more than one advance voting ballot, or set of one of each kind of ballot, if the voter is entitled to vote more than one such ballot at a particular election.

(b) Except as provided in K.S.A. 25-1124, and amendments thereto, no person shall interfere with or delay the transmission of any advance voting ballot application from a voter to the county election officer, nor shall any person mail, fax or otherwise cause the application to be sent to a place other than the county election office. Any person or group engaged in the distribution of advance voting ballot applications shall mail, fax or otherwise deliver any application signed by a voter to the county election office within two days after such application is signed by the applicant.

(c) Except as otherwise provided by law, no person other than the voter shall sign an application for an advance voting ballot for such voter.

 $\frac{d}{dt}(d)$ Except as otherwise provided by law, no person other than the voter, shall mark, sign or transmit to the county election officer any advance voting ballot or advance voting ballot envelope.

(d) (e) No person, unless authorized by K.S.A. 25-1122 or K.S.A. 25-1124, and amendments thereto, shall intercept, interfere with, or delay the transmission of advance voting ballots from the county election officer to the voter.

(e) (f) No person shall willfully and falsely affirm, declare or subscribe to any material fact in an affirmation form for an advance voting ballot, or set of advance voting ballots if the voter is entitled to vote more than one kind of advance voting ballot at a particular election, or in a declaration form on an advance voting ballot envelope.

(f) Nothing in this section shall be construed to prohibit any person from mailing, carrying or otherwise conveying advance voting ballots or sets of advance voting ballots to the county election officer upon request of advance voting voters.

(g) A voter may return such voter's advance voting ballot to the county election office by personal delivery or by mail. Upon written designation showing the date and signature by the voter on the ballot envelope, a person other than the voter may be designated to return the advance voting ballot by personal delivery or mail. Any such person designated by the voter shall sign a statement and date such statement at the time the ballot is taken from the voter and which statement appears on the ballot envelope that such person has not exercised undue influence on the voting decisions of the voter and agrees to deliver the ballot as directed by the voter. Any person designated by a voter to deliver such voter's advance voting ballot shall mail or deliver the ballot and the designation and statement required by this section to the county election office. Such delivery shall occur within two business days after receiving the ballot from the voter but not later than the close of polls on election day.

(g) (h) Violation of any provision of this section is a class C misdemeanor severity level 9 nonperson felony. No person may be found to have violated subsection (g) unless there is evidence the violation was knowingly and willfully done.

Sec. 4. K.S.A. 25-205 is hereby amended to read as follows: 25-205. (a) Except as otherwise provided in this section, the names of candidates for national, state, county and township offices shall be printed upon the official primary ballot when each shall have qualified to become a candidate by one of the following methods and none other: (1) They shall have had filed in their behalf, not later than 12:00 noon, June 10 June 1, prior to such primary election, or if such date falls on Saturday, Sunday or a holiday, then before 12:00

noon of the next following day that is not a Saturday, Sunday or a holiday, nomination petitions, as provided for in this act, except that in 1998, candidates for judge or district magistrate judge of the district court for positions created in 1998 in those judicial districts that have not approved the proposition of nonpartisan selection of judges of the district court shall have filed in their behalf, not later than 12:00 noon, July 1, 1998, nomination petitions, as provided for in this act; or (2) they shall have filed not later than the time for filing nomination petitions, as above provided, with the proper officer a declaration of intention to become a candidate, accompanied by the fee required by law. Such declaration shall be prescribed by the secretary of state.

(b) Nomination petitions shall be in substantially the following form:

I, the undersigned, an elector of the county of ______, and state of Kansas, and a duly registered voter, and a member of ______ party, hereby nominate ______, who resides in the township of _______ (or at number ______ on ______, street, city of _______), in the county of _______ and state of Kansas, as a candidate for the office of (here specify the office) _______, to be voted for at the primary election to be held on the first Tuesday in August in _______, as representing the principles of such party; and I further declare that I intend to support the candidate herein named and that I have not signed and will not sign any nomination petition for any other person, for such office at such primary election.

(HEADING)

Name of	Street Number	Name of	Date of
Signers.	or Rural Route	City.	Signing.
	(as registered).	-	0 0

All nomination petitions shall have substantially the foregoing form, written or printed at the top thereof. No signature shall be counted unless it is upon a sheet having such written or printed form at the top thereof.

(c) Each signer of a nomination petition shall sign but one such petition for the same office, and shall declare that such person intends to support the candidate therein named, and shall add to such person's signature and residence, if in a city, by street and number (if any); or, otherwise by post-office address. No signature shall be counted unless the place of residence of the signer is clearly indicated and the date of signing given as herein required and if ditto marks are used to indicate address they shall be continuous and clearly made. Such sheets shall not be cut or pasted together.

(d) All signers of each separate nomination petition shall reside in the same county and election district of the office sought. The affidavit described in this paragraph of a petition circulator who is a resident of the state of Kansas and has the qualifications of an elector in the state of Kansas or of the candidate shall be appended to each petition and shall contain, at the end of each set of documents carried by each circulator, a verification, signed by the circulator or the candidate, to the effect that such circulator or the candidate personally witnessed the signing of the petition by each person whose name appears thereon.

(e) Except as otherwise provided in subsection (g), nomination petitions shall be signed:

(1) If for a state officer elected on a statewide basis or for the office of United States senator, by voters equal in number to not less than 1% of the total of the current voter registration of the party designated in the state as compiled by the office of the secretary of state;

(2) If for a state or national officer elected on less than a statewide basis, by voters equal in number to not less than 2% of the total of the current voter registration of the party designated in such district as compiled by the office of the secretary of state, except that for the office of district magistrate judge, by not less than 2% of the total of the current voter registration of the party designated in the county in which such office is to be filled as certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto;

(3) If for a county office, by voters equal in number to not less than 3% of the total of the current voter registration of the party designated in such district or county as compiled

by the county election officer and certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto; and

(4) If for a township office, by voters equal in number to not less than 3% of the total of the current voter registration of the party designated in such township as compiled by the county election officer and certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto.

(f) Subject to the requirements of K.S.A. 25-202, and amendments thereto, any political organization filing nomination petitions for a majority of the state or county offices, as provided in this act, shall have a separate primary election ballot as a political party and, upon receipt of such nomination petitions, the respective officers shall prepare a separate state and county ballot for such new party in their respective counties or districts thereof in the same manner as is provided for existing parties.

(g) In any year in which districts are reapportioned for the offices of representative in the United States congress, senator and representative in the legislature of the state of Kansas or member of the state board of education:

(1) If new boundary lines are defined and districts established in the manner prescribed by law on or before May $\frac{10}{10}$, nomination petitions for nomination to such offices shall be signed by voters equal in number to not less than 1% of the total of the current voter registration of the party designated in the district as compiled by the office of the secretary of state.

(2) If new boundary lines are defined and districts established in the manner prescribed by law on or after May ± 2 , nomination petitions for nomination to the following offices shall be signed by registered voters of the party designated in the district equal in number to not less than the following:

- (A) For the office of representative in the United States

(h) In any year in which districts are reapportioned for the offices of representative in the United States congress, senator and representative in the legislature of the state of Kansas or member of the state board of education:

(1) If new boundary lines are defined and districts established in the manner prescribed by law on or before June $\frac{10}{10}$ *I*, the deadline for filing nomination petitions and declarations of intention to become a candidate for such office, accompanied by the fee required by law, shall be 12:00 noon on June $\frac{24}{15}$, or if such date falls on a Saturday, Sunday or a holiday, then before 12:00 noon of the next following day that is not a Saturday, Sunday or holiday.

(2) If new boundary lines are defined and districts established in the manner prescribed by law on or after June $\frac{11}{12}$, the deadline for filing nomination petitions and declarations of intention to become a candidate for such office, accompanied by the fee required by law, shall be 12:00 noon on July $\frac{12}{12}$ 3, or if such date falls on a Saturday, Sunday or holiday, then before 12:00 noon of the next day that is not a Saturday, Sunday or holiday.

Sec. 5. K.S.A. 25-4004 is hereby amended to read as follows: 25-4004. The provisions of K.S.A. 25-205, and amendments thereto, shall not apply to the offices of governor and lieutenant governor. The names of candidates for governor and lieutenant governor shall be printed upon the official primary ballot when each pair thereof shall have qualified to become candidates in one or the other of the following methods and none other: *First*, they shall have had filed in their behalf, not later than twelve o'clock 12:00 noon, June 10 June 1, prior to such primary election, or if such date falls on Saturday, Sunday or a legal holiday, then before twelve o'clock noon the following business day, nomination papers, commonly called nomination petitions, as provided for in K.S.A. 25-4005, and amendments thereto; or, *second*, they shall have filed not later than the time for filing nomination papers, as above provided, with the secretary of state, as hereinafter prescribed, a declaration of intention to become candidates, accompanied by a fee as provided in K.S.A. 25-4006, and amendments thereto.

Sec. 6. K.S.A. 2008 Supp. 25-1216 is hereby amended to read as follows: 25-1216. (a) Every person who is qualified and eligible to vote by federal services absentee ballot under the provisions of this act may make application for such ballot to the county election officer of the county of such voter's residence or to the secretary of state. Such application shall be made by postcard application provided for and prescribed in the federal act or on a form to be prescribed by the secretary of state. Any such application shall be valid for any election at which such voter otherwise is entitled to vote between the date of the application through the next two regularly scheduled general elections for national or state office.

(b) If the voter is residing outside the United States or is a member of the United States armed forces or a spouse or dependent of a member of the armed forces and a qualified elector and cannot vote timely by mail, the voter may apply for registration and an absentee ballot by facsimile *or electronic mail*. The voter may also request that the county election officer transmit to such voter by facsimile *or electronic mail* a ballot, or a second ballot, as the case may be. The voter may then either mail or transmit by facsimile *or electronic mail* such voter's voted ballot, back to the county election officer.

If the voter chooses to transmit the voted ballot to the county election officer by facsimile *or electronic mail*, the transmittal shall contain the following statement: "I understand that by faxing *or electronically mailing* my voted ballot I am voluntarily waiving my right to a secret ballot." This statement shall be followed by the voter's signature and the date. Upon receipt of the transmittal, the county election officer shall place the voted ballot along with the signed statement and affidavit in an appropriately marked envelope and seal it. The voted ballots received by facsimile *or electronic mail* as confidential as practicable.

Sec. 7. K.S.A. 25-205, 25-1218 and 25-4004 and K.S.A. 2008 Supp. 25-1124, 25-1128 and 25-1216 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.";

In the title, in line 10, by striking all after "concerning"; by striking all in line 11; in line 12, by striking all before the period and inserting "elections; pertaining to efficiency in handling ballots from military personnel and other official services absentee voters; pertaining to advance voting ballots; pertaining to candidate filing deadlines; amending K.S.A. 25-205, 25-1218 and 25-4004 and K.S.A. 2008 Supp. 25-1124, 25-1128 and 25-1216 and repealing the existing sections.";

And your committee on conference recommends the adoption of this report on SB 171.

STEVE HUEBERT SCOTT SCHWAB Conferees on part of House

VICKI SCHMIDT PAT APPLE Conferees on part of Senate

Senator V. Schmidt moved the Senate adopt the Conference Committee Report on ${f SB}$ 171.

On roll call, the vote was: Yeas 32, Nays 7, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Faust-Goudeau, Francisco, Hensley, Holland, Kelly, Kultala, Lee. Absent or Not Voting: Haley.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2060**, submits the following report: The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, following line 19, by inserting the following:

"New Section 1. (a) There is hereby created the joint committee on parole board oversight within the legislative branch of state government.

(b) The joint committee shall be composed of six members as follows: the chairperson and the ranking minority member of the standing senate committee on judiciary; the chairperson and the ranking minority member of the standing house committee on corrections and juvenile justice; one member appointed by the chairperson of the standing senate committee on judiciary; and one member appointed by the chairperson of the standing house committee on corrections and juvenile justice. The chairperson of the standing house committee on corrections and juvenile justice shall be the chairperson of the joint committee.

(c) Documents, records and reports from the parole board concerning factors and rationale used to determine the granting or denial of parole, as specified in subsection (d), shall be available to members of the joint committee, when carrying out such committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Documents, records and reports received by the joint committee are confidential and shall not be further disclosed. Such documents, records and reports received shall have information redacted which identifies any person or location, including, but not limited to, a city or county, except this provision shall not apply to the name of the inmate whose records are being reviewed. Such documents, records and reports received shall not be subject to K.S.A. 45-221, and amendments thereto. All copies of such documents, records and reports shall be returned to the parole board prior to the open meeting resuming. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate.

(d) (1) The parole board shall provide documents, records and reports to the joint committee related to the following:

(A) 15 parole board cases, selected by the secretary of corrections, involving inmates with sentencing dates prior to July 1, 1993, where the person was sentenced to prison for a crime committed prior to July 1, 1993, the person was not eligible for retroactive application of the sentencing guidelines pursuant to K.S.A. 21-4724, and amendments thereto, and the person is still incarcerated; and

(B) 15 parole board cases, selected by the secretary of corrections, involving inmates with sentencing dates prior to July 1, 1993, where the person was sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program for a crime committed prior to July 1, 1993, the person was not eligible for retroactive application of the sentencing guidelines pursuant to K.S.A. 21-4724, and amendments thereto, and the person is still incarcerated.

(2) The parole board shall also provide to the joint committee a summary statement of the factors and rationale used to determine the granting or denial of parole in each such case and any correspondence received by the parole board relating to such grant or denial.

(3) The secretary of corrections shall select parole board cases representative of a variety of circumstances including, but not limited to: Inmates with different custody levels at the time of such inmates' parole hearings; inmates with different types of offenses or conduct that resulted in such inmates' incarceration; and inmates incarcerated in different state correctional facilities.

(e) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee to the extent that the same do not conflict with the specific provisions of this section applicable to the joint committee.

(f) Members of the joint committee shall receive compensation, travel expenses and subsistence expenses as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of the joint committee.

(g) The staff of the office of revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be

requested by the joint committee and to the extent authorized by the legislative coordinating council.

(h) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee.

(i) The joint committee shall prepare and submit a final report and recommendations to the legislature on or before January 1, 2010.

(j) The provisions of this section shall expire on January 1, 2010.

Sec. 2. K.S.A. 8-1568 is hereby amended to read as follows: 8-1568. (a) (1) Any driver of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to clude for a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), (2) or (3). The signal given by the police officer may be by hand, voice, emergency light or siren. The officer giving such signal shall be in uniform, prominently displaying such officer's badge of office, and the officer's vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle.

(2) Any driver of a motor vehicle who willfully otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), (2) or (3).

(3) It shall be an affirmative defense to any prosecution under paragraph (1) of this subsection that the driver's conduct in violation of such paragraph was caused by such driver's reasonable belief that the vehicle or bicycle pursuing such driver's vehicle is not a police vehicle or police bicycle.

(b) Any driver who violates the provisions of subsection (a) of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, and who: (1) Commits any of the following during a police pursuit: (A) Fails to stop for a police road block; (B) drives around tire deflating devices placed by a police officer; (C) engages in reckless driving as defined by K.S.A. 8-1566 and amendments thereto; (D) is involved in any motor vehicle accident or intentionally causes damage to property; or (E) commits five or more moving violations; or

(2) is attempting to elude capture for the commission of any felony, shall be guilty as provided in subsection (c)(4).

(c) (1) Every person convicted of violating *Violation of* subsection (a), upon a first conviction, shall be guilty of *is* a class B nonperson misdemeanor.

(2) Every person convicted of violating Violation of subsection (a), upon a second conviction of such subsection, shall be guilty of is a class A nonperson misdemeanor.

(3) Every person convicted of violating Violation of subsection (a), upon a third or subsequent conviction of such subsection, shall be guilty of is a severity level 9, person felony.

(4) Every person convicted of violating Violation of subsection (b) shall be guilty of is a severity level 9, person felony.

(d) The signal given by the police officer may be by hand, voice, emergency light or siren:

(1) If the officer giving such signal is within or upon an official police vehicle or police bicycle at the time the signal is given, the vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle; or

(2) if the officer giving such signal is not utilizing an official police vehicle or police bicycle at the time the signal is given, the officer shall be in uniform, prominently displaying such officer's badge of office at the time the signal is given.

 $(\mathbf{d})(e)$ For the purpose of this section:

(1) "Conviction" means a final conviction without regard whether sentence was suspended or probation granted after such conviction. Forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

(2) "Appropriately marked" official police vehicle or police bicycle shall include, but not be limited to, any police vehicle or bicycle equipped with functional emergency lights or siren or both and which the emergency lights or siren or both have been activated for the purpose of signaling a driver to stop a motor vehicle.

(e) (f) The division of vehicles of the department of revenue shall promote public awareness of the provisions of this section when persons apply for or renew such person's driver's license.

Sec. 3. K.S.A. 21-3419 is hereby amended to read as follows: 21-3419. (a) A criminal threat is any threat to:

(1) Commit violence communicated with intent to terrorize another, or to cause the evacuation, *lock down or disruption in regular, ongoing activities* of any building, place of assembly or facility of transportation, or in reckless disregard of the risk of causing such terror or evacuation, *lock down or disruption in regular, ongoing activities*;

(2) adulterate or contaminate any food, raw agricultural commodity, beverage, drug, animal feed, plant or public water supply; or

(3) expose any animal in this state to any contagious or infectious disease.

(b) A criminal threat is a severity level 9, person felony.

(c) As used in this section, "threat" includes any statement that one has committed any action described by subsection (a)(1) or (2).

Sec. 4. K.S.A. 2008 Supp. 21-3419a is hereby amended to read as follows: 21-3419a. (a) Aggravated criminal threat is the commission of one or more crimes of criminal threat, as defined in K.S.A. 21-3419 and amendments thereto, when a public, commercial or industrial building, place of assembly or facility of transportation is evacuated, *locked down or disrupted as to regular, ongoing activities* as a result of the threat or threats.

(b) Aggravated criminal threat is a severity level 5, person felony.";

And by renumbering sections accordingly;

On page 2, in line 7, by striking "attending the"; in line 8, by striking "conduct" and inserting "attendance";

On page 3, in line 1, by striking all preceding "of" and inserting ", unlawful attendance"; following line 39, by inserting the following:

"Sec. 8. K.S.A. 21-4603d is hereby amended to read as follows: 21-4603d. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense;

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence, or community corrections placement;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) $\,$ assign the defendant to a house arrest program pursuant to K.S.A. 21-4603b and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (3) of K.S.A. 21-4502, and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension

or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape, as defined in K.S.A. 21-3809, and amendments thereto, or aggravated escape, as defined in K.S.A. 21-3810, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson under K.S.A. 21-3718 or 21-3719, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company or any public funds which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company or any county agency and a mount of any such costs and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company or any county agency fire district, fire department or fire company or any count form to a such county.

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) $\,$ order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10); or

(12) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 21-4018, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The administrative judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (4) of K.S.A. 21-4502, and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

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(e) In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release, or postrelease supervision for a felony, a new sentence shall be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671 prior to its repeal or K.S.A. 2007 2008 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(3) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendment thereto or a community intermediate sanction center. Pursuant to this paragraph the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or a community intermediate sanction center and the defendant meets all of the conservation camp's or a community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or a community intermediate sanction center.

(h) The court in committing a defendant to the custody of the secretary of corrections shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount claimed by appointed be to be included in the court order for reimbursement shall be the amount claimed by appointed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(I) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate: (1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, or for an offense which is classified in gridblocks 4-E or 4-F of the sentencing guidelines grid for drug crimes and such offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, and (2) otherwise meets admission criteria of the camp. If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 21-4611 and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) Except as provided by subsection (f) of K.S.A. 21-4705, and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 65-4160 or 65-4162 section 6 of 2009 House Bill No. 2236, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 21-4729, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. 2007 2008 Supp. 75-52,144, and amendments thereto, including but not limited to, an approved aftercare plan. If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to revocation of probation and the defendant shall serve the underlying prison sentence as established in K.S.A. 21-4705, and amendments thereto. For those offenders who are convicted on or after the effective date of this act, upon completion of the underlying prison sentence, the defendant shall not be subject to a period of postrelease supervision. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance

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or controlled substance analog in violation of section 6 of 2009 House Bill No. 2236, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division shall forward a copy of it to the motor vehicle administrator, of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto.

Sec. 9. K.S.A. 21-4611 is hereby amended to read as follows: 21-4611. (a) The period of suspension of sentence, probation or assignment to community corrections fixed by the court shall not exceed five years in felony cases involving crimes committed prior to July 1, 1993, or two years in misdemeanor cases, subject to renewal and extension for additional fixed periods not exceeding five years in such felony cases, nor two years in misdemeanor cases. In no event shall the total period of probation, suspension of sentence or assignment to community corrections for a felony committed prior to July 1, 1993, exceed the greatest maximum term provided by law for the crime, except that where the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. Probation, suspension of sentence or assignment to community corrections, suspension of sentence or assignment to community corrections.

tions may be terminated by the court at any time and upon such termination or upon termination by expiration of the term of probation, suspension of sentence or assignment to community corrections, an order to this effect shall be entered by the court. The provisions of K.S.A. 75-5291, and amendments thereto, shall be applicable to any assignment to a community correctional services program pursuant to this section.

(b) The district court having jurisdiction of the offender may parole any misdemeanant sentenced to confinement in the county jail. The period of such parole shall be fixed by the court and shall not exceed two years and shall be terminated in the manner provided for termination of suspended sentence and probation.

(c) For all crimes committed on or after July 1, 1993, the duration of probation in felony cases sentenced for the following severity levels on the sentencing guidelines grid for nondrug crimes and the sentencing guidelines grid for drug crimes is as follows:

(1) For nondrug crimes the recommended duration of probations is:

(A) Thirty-six months for crimes in crime severity levels 1 through 5; and

(B) 24 months for crimes in crime severity levels 6 and 7.

(2) $\,$ For drug crimes the recommended duration of probation is 36 months for crimes in crime severity levels 1 and 2.

(3) *Except as otherwise provided*, in felony cases sentenced at severity levels 9 and 10 on the sentencing guidelines grid for nondrug crimes and severity level 4 on the sentencing guidelines grid for drug crimes, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation, or assignment to a community correctional services program as provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to 12 months in length.

(4) In felony cases sentenced at severity level 8 on the sentencing guidelines grid for nondrug crimes and, severity level 3 on the sentencing guidelines grid for drug crimes and felony cases sentenced pursuant to K.S.A. 21-4729, and amendments thereto, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation, or assignment to a community correctional services program, as provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to 18 months in length.

(5) If the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by the length of the probation terms provided in subsections (c)(3) and (c)(4), the court may impose a longer period of probation. Such an increase shall not be considered a departure and shall not be subject to appeal.

(6) Except as provided in subsections (c)(7) and (c)(8), the total period in all cases shall not exceed 60 months, or the maximum period of the prison sentence that could be imposed whichever is longer. Nonprison sentences may be terminated by the court at any time.

(7) If the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. If the defendant is ordered to pay full or partial restitution, the period may be continued as long as the amount of restitution ordered has not been paid.

(8) The court may modify or extend the offender's period of supervision, pursuant to a modification hearing and a judicial finding of necessity. Such extensions may be made for a maximum period of five years or the maximum period of the prison sentence that could be imposed, whichever is longer, inclusive of the original supervision term.

(d) The provisions of subsection (c), as amended by this act, shall be applied retroactively. The sentencing court shall direct that a review of all persons serving a nonprison sanction for a crime in severity levels 8, 9 or 10 of the sentencing guidelines grid for nondrug crimes or a crime in severity levels 3 or 4 of the sentencing guidelines grid for drug crimes be conducted. On or before September 1, 2000, the duration of such person's probation shall be modified in conformity with the provisions of subsection (c).";

And by renumbering the remaining sections accordingly;

On page 7, in line 35, by striking "the uniform controlled substances act, K.S.A. 65-4101 et seq." and inserting "sections 1 through 17 of 2009 House Bill No. 2236"; in line 40, by striking "the uniform controlled substances act, K.S.A. 65-4101 et seq." and inserting "sections 1 through 17 of 2009 House Bill No. 2236";

On page 9, in line 39, preceding the period by inserting "and shall be served consecutively to any other term or terms of imprisonment imposed";

On page 10, in line 2, by striking all after "under" and inserting "sections 1 through 17 of 2009 House Bill No. 2236, and amendments thereto,";

On page 12, in line 2, by striking all after "of" where it appears for the last time and inserting "sections 1 through 17 of 2009 House Bill No. 2236, and amendments thereto,";

On page 13, in line 3, after "65-4159" by inserting ", prior to its repeal, or section 3 of 2009 House Bill No. 2236,"; in line 15, before "and" by inserting "prior to such section's repeal, or section 6 of 2009 House Bill No. 2236,"; in line 17, by striking "Such" and inserting "Subject to appropriations therefor, such"; in line 20, following the period by inserting "If the secretary determines that substance abuse treatment resources are otherwise available, such term of imprisonment may be served in a facility designated by the secretary of corrections in the custody of the secretary's determination regarding the availability of treatment resources shall not be subject to review."; by striking all in lines 41 through 43;

By striking all on page 14;

On page 15, by striking all in lines 1 through 15 and inserting the following:

"(g) (1) Except as provided further, if the trier of fact makes a finding that an offender carried a firearm to commit a drug felony, or in furtherance of a drug felony, possessed a firearm, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to:

(A) Except as provided in subparagraph (1)(B), an additional 6 months' imprisonment; and

(B) if the trier of fact makes a finding that the firearm was discharged, an additional 18 months' imprisonment.

(2) The sentence imposed pursuant to paragraph (1) shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) The provisions of this subsection shall not apply to violations of section 6 or $\overline{13}$ of 2009 House Bill No. 2236, and amendments thereto.

Sec. 12. K.S.A. 2008 Supp. 21-4714 is hereby amended to read as follows: 21-4714. (a) The court shall order the preparation of the presentence investigation report by the court services officer as soon as possible after conviction of the defendant.

(b) Each presentence report prepared for an offender to be sentenced for one or more felonies committed on or after July 1, 1993, shall be limited to the following information:

(1) A summary of the factual circumstances of the crime or crimes of conviction.

(2) If the defendant desires to do so, a summary of the defendant's version of the crime.

(3) When there is an identifiable victim, a victim report. The person preparing the victim report shall submit the report to the victim and request that the information be returned to be submitted as a part of the presentence investigation. To the extent possible, the report shall include a complete listing of restitution for damages suffered by the victim.

(4) An appropriate classification of each crime of conviction on the crime severity scale. (5) A listing of prior adult convictions or juvenile adjudications for felony or misdemeanor crimes or violations of county resolutions or city ordinances comparable to any misdemeanor defined by state law. Such listing shall include an assessment of the appropriate classification of the criminal history on the criminal history scale and the source of information regarding each listed prior conviction and any available source of journal entries or other documents through which the listed convictions may be verified. If any such journal entries or other documents are obtained by the court services officer, they shall be attached to the presentence investigation report. Any prior criminal history worksheets of the defendant shall also be attached.

(6) A proposed grid block classification for each crime, or crimes of conviction and the presumptive sentence for each crime, or crimes of conviction.

(7) If the proposed grid block classification is a grid block which presumes imprisonment, the presumptive prison term range and the presumptive duration of postprison supervision as it relates to the crime severity scale.

(8) If the proposed grid block classification does not presume prison, the presumptive prison term range and the presumptive duration of the nonprison sanction as it relates to

the crime severity scale and the court services officer's professional assessment as to recommendations for conditions to be mandated as part of the nonprison sanction.

(9) For defendants who are being sentenced for a conviction of a felony violation of K.S.A. 65-4160 or 65-4162, *prior to such section's repeal, or section 6 of 2009 House Bill No.* 2236, and amendments thereto, and meet the requirements of K.S.A. 21-4729, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.

(10) For defendants who are being sentenced for a third or subsequent felony conviction of a violation of K.S.A. 65-4160 or 65-4162, *prior to such section's repeal, or section 6 of 2009 House Bill No.* 2236, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.

(c) The presentence report will become part of the court record and shall be accessible to the public, except that the official version, defendant's version and the victim's statement, any psychological reports, risk and needs assessments and drug and alcohol reports and assessments shall be accessible only to the parties, the sentencing judge, the department of corrections, and if requested, the Kansas sentencing commission. If the offender is committed to the custody of the secretary of corrections, the report shall be sent to the secretary and, in accordance with K.S.A. 75-5220 and amendments thereto to the warden of the state correctional institution to which the defendant is conveyed.

(d) The criminal history worksheet will not substitute as a presentence report.

(e) The presentence report will not include optional report components, which would be subject to the discretion of the sentencing court in each district except for psychological reports and drug and alcohol reports.

(f) *Except as provided in K.S.A.* 21-4715, and amendments thereto, the court can take judicial notice in a subsequent felony proceeding of an earlier presentence report criminal history worksheet prepared for a prior sentencing of the defendant for a felony committed on or after July 1, 1993.

(g) All presentence reports in any case in which the defendant has been convicted of a felony shall be on a form approved by the Kansas sentencing commission.

Sec. 13. K.S.A. 21-4715 is hereby amended to read as follows: 21-4715. (a) The offender's criminal history shall be admitted in open court by the offender or determined by a preponderance of the evidence at the sentencing hearing by the sentencing judge.

(b) Except to the extent disputed in accordance with subsection (c), the summary of the offender's criminal history prepared for the court by the state shall satisfy the state's burden of proof regarding an offender's criminal history.

(c) Upon receipt of the criminal history worksheet prepared for the court, the offender shall immediately notify the district attorney and the court with written notice of any error in the proposed criminal history worksheet. Such notice shall specify the exact nature of the alleged error. The state shall have the burden of producing further evidence to satisfy its burden of proof regarding any disputed part, or parts, of the criminal history and the sentencing judge shall allow the state reasonable time to produce such evidence to establish the disputed portion of the criminal history by a preponderance of the evidence. If the offender later challenges such offender's criminal history, which has been previously established, the burden of proof shall shift to the offender to prove such offender's criminal history by a preponderance of the evidence.

Sec. 14. K.S.A. 2008 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

(1) Personnel matters of nonelected personnel;

(2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;

(3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;

(4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;

(5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;

(6) preliminary discussions relating to the acquisition of real property;

(7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto;

(8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (d)(1) of K.S.A. 38-1507 and amendments thereto or subsection (e) of K.S.A. 38-1508 and amendments thereto;

(9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto;

(10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 44-596 and amendments thereto;

(11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 39-7,119 and amendments thereto;

(12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;

(13) matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the agency for purposes of this paragraph. For purposes of this paragraph, security measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments;

(14) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto; $\frac{1}{100}$

(15) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2008 Supp. 75-7427, and amendments thereto;; and

(16) matters permitted to be discussed in a closed or executive meeting pursuant to section 1, and amendments thereto.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

(d) (1) Any confidential records or information relating to security measures provided or received under the provisions of subsection (b)(13), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

(2) (A) Except as otherwise provided by law, any confidential documents, records or reports relating to the parole board provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

(B) Notwithstanding any other provision of law to the contrary, any summary statement provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

Sec. 15. K.S.A. 2008 Supp. 75-5291 is hereby amended to read as follows: 75-5291. (a) (1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services that address the

criminogenic needs of felony offenders including, but not limited to, adult intensive supervision, substance abuse and mental health services, employment and residential services, and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52,127 and amendments thereto.

(2) Except as otherwise provided, placement of offenders in community correctional services programs by the court shall be limited to placement of adult offenders, convicted of a felony offense:

(A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In addition, the court may place in a community correctional services program adult offenders, convicted of a felony offense, whose offense is classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes;

(B) whose severity level and criminal history score designate a presumptive prison sentence on either sentencing guidelines grid but receive a nonprison sentence as a result of departure;

(C) all offenders convicted of an offense which satisfies the definition of offender pursuant to K.S.A. 22-4902, and amendments thereto, and which is classified as a severity level 7 or higher offense and who receive a nonprison sentence, regardless of the manner in which the sentence is imposed;

(D) any offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in the offender being required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections;

(E) on and after July 1, 2010 January 1, 2011, for offenders who are expected to be subject to supervision in Kansas, who are determined to be "high risk or needs, or both" by the use of a statewide, mandatory, standardized risk assessment tool or instrument which shall be specified by the Kansas sentencing commission;

(F) placed in community correctional services programs as a condition of supervision following the successful completion of a conservation camp program; or

 $\rm (G)~$ who has been sentenced to community corrections supervision pursuant to K.S.A. 21-4729, and amendments thereto.

(3) (A) Notwithstanding any law to the contrary and subject to the availability of funding therefor, adult offenders sentenced to community supervision in Johnson county for felony crimes that occurred on or after July 1, 2002, but before July 1, 2010 January 1, 2011, shall be placed under court services or community corrections supervision based upon court rules issued by the chief judge of the 10th judicial district. The provisions contained in this subsection shall not apply to offenders transferred by the assigned agency to an agency located outside of Johnson county. The provisions of this paragraph shall expire on July 1, 2010 January 1, 2011.

(B) On or before the first day of the 2009 legislative session, the Kansas sentencing commission shall submit a written report on such offender program to the senate standing committee on judiciary and the house of representatives standing committee on judiciary.

(4) Nothing in this act shall prohibit a community correctional services program from providing services to juvenile offenders upon approval by the local community corrections advisory board. Grants from community corrections funds administered by the secretary of corrections shall not be expended for such services.

(5) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established, as provided in K.S.A. 22-3716, and amendments thereto, to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of

the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(b) (1) In order to establish a mechanism for community correctional services to participate in the department of corrections annual budget planning process, the secretary of corrections shall establish a community corrections advisory committee to identify new or enhanced correctional or treatment interventions designed to divert offenders from prison.

(2) The secretary shall appoint one member from the southeast community corrections region, one member from the northeast community corrections region, one member from the central community corrections region and one member from the western community corrections region. The deputy secretary of community and field services shall designate two members from the state at large. The secretary shall have final appointment approval of the members designated by the deputy secretary. The committee shall reflect the diversity of community correctional services with respect to geographical location and average daily population of offenders under supervision.

(3) Each member shall be appointed for a term of three years and such terms shall be staggered as determined by the secretary. Members shall be eligible for reappointment.

(4) The committee, in collaboration with the deputy secretary of community and field services or the deputy secretary's designee, shall routinely examine and report to the secretary on the following issues:

- (A) Efficiencies in the delivery of field supervision services;
- (B) effectiveness and enhancement of existing interventions;
- (C) identification of new interventions; and
- (D) statewide performance indicators.
- (5) The committee's report concerning enhanced or new interventions shall address:
- (A) Goals and measurable objectives;
- (B) projected costs;
- (C) the impact on public safety; and
- (D) the evaluation process.

(6) The committee shall submit its report to the secretary annually on or before July 15 in order for the enhanced or new interventions to be considered for inclusion within the department of corrections budget request for community correctional services or in the department's enhanced services budget request for the subsequent fiscal year.

Sec. 16. K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4603d, as amended by section 32 of 2009 House Bill No. 2236, 21-4611 and 21-4715 and K.S.A. 2008 Supp. 21-3419a, 21-4704, 21-4704, as amended by section 33 of 2009 House Bill No. 2236, 21-4705, 21-4705, 21-4705, as amended by section 34 of 2009 House Bill No. 2236, 21-4714, 21-4714, as amended by section 37 of 2009 House Bill No. 2236, 75-4319 and 75-5291 are hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all in lines 12 through 17 and inserting the following: "AN ACT concerning crimes, punishment and criminal procedure; amending K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4611 and 21-4715 and K.S.A. 2008 Supp. 21-3419a, 21-4704, 21-4705, 21-4714, 75-4319 and 75-5291 and repealing the existing sections; also repealing K.S.A. 21-4603d, as amended by section 32 of 2009 House Bill No. 2236, and K.S.A. 2008 Supp. 21-4704, as amended by section 33 of 2009 House Bill No. 2236, 21-4705, as amended by section 34 of 2009 House Bill No. 2236, and 21-4714, as amended by section 37 of 2009 House Bill No. 2236.";

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

THOMAS C. OWENS DEREK SCHMIDT LAURA KELLY Conferees on part of Senate

PAT COLLOTON JOE PATTON MELODY MCCRAY-MILLER Conferees on part of House Senator Owens moved the Senate adopt the Conference Committee Report on **HB 2060.** On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Faust-Goudeau, Taddiken.

Absent or Not Voting: Haley.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2158**, submits the following report:

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

On page 3, by striking all in line 17 and inserting in lieu thereof the following:

"New Sec. 2. (a) The board of county commissioners of Sherman county may provide for the election of county commissioners in accordance with this section. The procedure for the election of county commissioners shall be adopted by resolution in accordance with the provisions of K.S.A. 19-204 and amendments thereto. The resolution shall be in substantial compliance with the provisions of subsection (b). Any county commissioner whose term has not expired by the time the resolution has been adopted by the voters of Sherman county, Kansas, shall continue to serve until a successor county commissioner is elected.

(b) (1) Each county commissioner shall run at large. Each candidate for county commissioner may reside anywhere within Sherman county, Kansas.

(2) All electors who are otherwise qualified according to law and who reside in Sherman county, Kansas, may vote in both the primary and general election for each county commissioner being elected. Each candidate shall file for the office of county commissioner in the manner provided by law. Elections for the office of county commissioner shall be conducted in accordance with the provisions of article 25 of the Kansas Statutes Annotated, and amendments thereto, except as provided in this section and amendments thereto.

(3) (A) Primary elections under this section shall be conducted on a partisan basis. In the primary election, each qualified voter shall be allowed to vote for the same number of candidates as the number of county commissioners being elected. For each county commissioner being elected, the candidate receiving the highest number of votes shall appear on the ballot in the general election.

(B) No person shall be permitted to cast more than one vote for any specific candidate.

(4) In the general election, each qualified voter shall be allowed to vote for the same number of candidates as the number of county commissioners being elected. The candidate receiving the highest number of votes for each office of county commissioner being elected shall be deemed to have been elected to such office.

(c) (1) The provisions of this section shall expire on December 31, 2010, unless the qualified voters of Sherman county, Kansas, elect to adopt the provisions of this section prior to such date.

(2) If a majority of the qualified electors voting on the resolution submitted to the voters pursuant to this section who reside within the corporate limits of the city of Goodland, Kansas, and a majority of the qualified electors voting on such resolution who reside outside of the corporate limits of the city of Goodland, Kansas, vote in favor thereof, the resolution shall be implemented in the manner provided by the resolution. If a majority of the electors who reside outside of the city of Goodland, Kansas, or a majority of the qualified electors who reside outside of the city of Goodland, Kansas, vote in favor thereof, the resolution shall be implemented in the manner provided by the resolution. If a majority of the electors who reside outside of the corporate limits of the city of Goodland, Kansas, vote against such resolution, the proposed resolution shall not be implemented.

Sec. 3. K.S.A. 19-201 is hereby amended to read as follows: 19-201. *Except as provided in section 2, and amendments thereto,* each county in the state of Kansas shall have three

(3), five (5) or seven (7) commissioner districts, which shall be designated numerically and serially beginning with number 1.

The provisions of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 4. K.S.A. 19-202 is hereby amended to read as follows: 19-202. (a) The board of county commissioners of each county shall consist of three, five or seven qualified electors.

(b) *Except as provided in section 2, and amendments thereto,* one county commissioner shall reside in and represent each commissioner district within the county. During the time that any person is a candidate for nomination or election to office as a member of the board of county commissioners and during the term of office of the county commissioner, such candidate or county commissioner shall be and remain a qualified elector who resides in such person's district.

(c) Except as provided by K.S.A. 19-203, and amendments thereto, terms of office for the board of county commissioners shall be staggered in such a way that no more than a simple majority of commissioners is elected at any general election.

(d) Except as provided by K.S.A. 19-203, and amendments thereto, all county commissioners shall hold office for a term of four years from the second Monday of January next after their election and until their successors are qualified.

(e) The provisions of subsections (a), (c) and (\overline{d}) of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 5. K.S.A. 19-203 is hereby amended to read as follows: 19-203. (a) *Subject to the provisions of section 2, and amendments thereto,* when a vacancy occurs in the office of a member of the board of county commissioners, it shall be filled by appointment of a resident in the district to fill the office for the unexpired term and until a successor is elected and qualified. When a vacancy occurs before May 1 of the first even-numbered year following the commencement of a term of office, it shall be filled by the appointment of a resident of such district who shall serve until a successor is elected and qualified at the next general election. Such successor shall assume office on the second Monday of January next following such election.

(b) Except as provided by subsection (c), appointments under this section shall be made in the manner provided by K.S.A. 25-3902, and amendments thereto, for filling vacancies in district offices.

(c) Subject to the provisions of section 2, and amendments thereto, vacancies created by an increase in the number of county commissioner districts in a county pursuant to K.S.A. 19-204, and amendments thereto, shall be filled by appointment of the governor. The governor shall make such appointments within 30 days of the date of the adoption of the resolution dividing the county into commissioner districts or within 30 days of the date of the order of the district court dividing the county into commissioner districts as required by K.S.A. 19-204a, and amendments thereto. Such appointees shall serve until successors are elected and qualified at the next general election. Such successors shall assume office on the second Monday of January next following their election. If at the next general election following such appointments, more than a simple majority of commissioners are elected, persons elected to the positions created by an increase in the number of districts shall be elected for two year terms and until their successors are qualified. Thereafter such members shall be elected to four year terms and until their successors are qualified. The provisions of this subsection shall apply to positions created by an increase in the number of districts at the election held in November 1990 and all such elections thereafter.

Sec. 6. K.S.A. 19-204 is hereby amended to read as follows: 19-204. (a) Subject to the provisions of section 2, and amendments thereto, and subject to the provisions of K.S.A. 19-204a, and amendments thereto, the board of county commissioners, on the day of the organization of the board or as soon thereafter as may be possible, shall meet and divide the county into three commissioner districts or such number of districts as is prescribed by resolution of the board, as compact and equal in population as possible, and number them. Such districts shall be subject to alteration at least once every three years.

(b) In Shawnee county, each district shall include residents of both the incorporated and unincorporated areas of the county. The number of residents in each district from the

unincorporated area of the county shall be as equal in number, as possible. Such districts shall be subject to alteration at least once every three years.

If the districts do not meet the requirements of this subsection, the districts shall be altered to comply with such requirements no later than 30 days following the effective date of this act.

(c) The board of county commissioners of any county, by resolution, may divide the county into three, five or seven commissioner districts, as compact and equal in population as possible, but no such resolution which would effect a change in the number of commissioner districts shall take effect until it has been approved by a majority of the qualified electors of the county voting thereon at the next general election following not less than 60 days the adoption of such resolution, in which all the qualified electors of the county are entitled to vote. Upon the presentation of a petition to the board of county commissioners, signed by electors equal in number to 5% of the qualified electors of the county and verified by the county election officer, requesting that the number of commissioner districts be changed, the board of county commissioners shall cause such proposition to be submitted to the voters of the county at the next general election, following not less than 60 days the presentation of such petition, in which all of the qualified electors of the county are entitled to vote. In the event that more than one such petition is presented to the board of county commissioners prior to a general election, and any of such petitions conflicts with any other such petition with respect to the number of commissioner districts requested, the board of county commissioners shall decide, by majority vote thereon, which of the propositions shall be submitted to the voters at the next such general election. If a majority of the electors voting at such election shall be in favor of changing the number of commissioner districts, the board of county commissioners shall provide for the division of the county into commissioner districts as provided in K.S.A. 19-204a, and amendments thereto.

(d) No change in the number of commissioner districts shall become effective in any county within four years of the effective date of any previous change in the number of commissioner districts in such county.

(e) The provisions of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 7. K.S.A. 19-204a is hereby amended to read as follows: 19-204a. *Subject to the provisions of section 2, and amendments thereto,* when the voters of a county approve a change in the number of county commissioner districts at an election held under K.S.A. 19-204, and amendments thereto, the board of county commissioners, on or before January 1 immediately following such election, shall adopt a resolution dividing the county into the number of districts approved by the voters. If the board of county commissioners fails to adopt such resolution within the time prescribed, the chief judge of the district court of the county, on or before the following January 31, shall order the county divided into the appropriate number of districts.

Sec. 8. On July 1, 2009, K.S.A. 2008 Supp. 25-4156 is hereby amended to read as follows: 25-4156. (a) (1) Whenever any person sells space in any newspaper, magazine or other periodical to a candidate or to a candidate committee, party committee or political committee, the charge made for the use of such space shall not exceed the charges made for comparable use of such space for other purposes.

(2) Intentionally charging an excessive amount for political advertising is a class A misdemeanor.

(b) (1) Corrupt political advertising of a state or local office is:

(A) Publishing or causing to be published in a newspaper or other periodical any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the word "advertisement" or the abbreviation "adv." in a separate line together with the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

(B) broadcasting or causing to be broadcast by any radio or television station any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor; $\overline{\sigma}$

(C) telephoning or causing to be contacted by any telephonic means including, but not limited to, any device using a voice over internet protocol or wireless telephone, any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is preceded by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

 $\frac{(\mathbf{C})}{(D)}$ publishing or causing to be published any brochure, flier or other political fact sheet which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this subsection (C) subparagraph (D) requiring the disclosure of the name of an individual shall not apply to individuals making expenditures in an aggregate amount of less than \$2,500 within a calendar year; or

(E) making or causing to be made any website, e-mail or other type of internet communication which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this subparagraph (E) requiring the disclosure of the name of an individual shall apply only to any website, e-mail or other type of internet communication which is made by the candidate, the candidate's candidate committee, a political committee or a party committee and such website, e-mail or other internet communication viewed by or disseminated to at least 25 individuals. For the purposes of this subparagraph, the terms "candidate," "candidate committee," and "political committee" shall have the meanings ascribed to them in K.S.A. 25-4143, and amendments thereto.

(2) Corrupt political advertising of a state or local office is a class C misdemeanor.

(c) If any provision of this section or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this section which can be given effect without the invalid application or provision, and to this end the provisions of this section are declared to be severable.

Sec. 9. On July 1, 2009, K.S.A. 2008 Supp. 25-4148 is hereby amended to read as follows: 25-4148. (a) Every treasurer shall file a report prescribed by this section. Reports filed by treasurers for candidates for state office, other than officers elected on a state-wide basis, shall be filed in both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident. Reports filed by treasurers for candidates for state-wide office shall be filed *electronically and* only with the secretary of state. Reports filed by treasurers for candidates for local office shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot. Except as otherwise provided by subsection (h), all such reports shall be filed in time to be received in the offices required on or before each of the following days:

(1) The eighth day preceding the primary election, which report shall be for the period beginning on January 1 of the election year for the office the candidate is seeking and ending 12 days before the primary election, inclusive;

(2) the eighth day preceding a general election, which report shall be for the period beginning 11 days before the primary election and ending 12 days before the general election, inclusive;

(3) January 10 of the year after an election year, which report shall be for the period beginning 11 days before the general election and ending on December 31, inclusive;

(4) for any calendar year when no election is held, a report shall be filed on the next January 10 for the preceding calendar year;

(5) a treasurer shall file only the annual report required by subsection (4) for those years when the candidate is not participating in a primary or general election.

(b) Each report required by this section shall state:

(1) Cash on hand on the first day of the reporting period;

(2) the name and address of each person who has made one or more contributions in an aggregate amount or value in excess of \$50 during the election period together with the amount and date of such contributions, including the name and address of every lender, guarantor and endorser when a contribution is in the form of an advance or loan;

(3) the aggregate amount of all proceeds from bona fide sales of political materials such as, but not limited to, political campaign pins, buttons, badges, flags, emblems, hats, banners and literature;

(4) the aggregate amount of contributions for which the name and address of the contributor is not known;

(5) each contribution, rebate, refund or other receipt not otherwise listed;

(6) the total of all receipts;

(7) the name and address of each person to whom expenditures have been made in an aggregate amount or value in excess of \$50, with the amount, date, and purpose of each; the names and addresses of all persons to whom any loan or advance has been made; when an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each;

(8) the name and address of each person from whom an in-kind contribution was received or who has paid for personal services provided without charge to or for any candidate, candidate committee, party committee or political committee, if the contribution is in excess of \$100 and is not otherwise reported under subsection (b)(7), and the amount, date and purpose of the contribution;

(9) the aggregate of all expenditures not otherwise reported under this section; and

(10) the total of expenditures.

(c) In addition to the requirements of subsection (b), every treasurer for any political committee and party committee shall report the following:

(1) (A) The name and address of each candidate for state or local office for whom an expenditure in the form of an in-kind contribution has been made in an aggregate amount or having a fair market value in excess of \$300, with the amount, date and purpose of each. The report shall show in detail the specific service or product provided; and

(B) the name and address of each candidate for state or local office who is the subject of an expenditure which:

(i) Is made without the cooperation or consent of a candidate or candidate committee;

(ii) expressly advocates the nomination, election or defeat of such candidate; and

(iii) is an aggregate amount or having a fair market value in excess of \$300.

(2) The report shall state the amount, date and purpose of the expenditure in the form of an in-kind contribution. The report shall show in detail the specific service or product provided. The reporting requirements imposed by this subsection shall be in addition to all other requirements required by this section.

(d) Treasurers of candidates and of candidate committees shall itemize the purchase of tickets or admissions to testimonial events by a person who purchases such tickets or admissions in an aggregate amount or value in excess of \$50 per event, or who purchases such a ticket or admission at a cost exceeding \$25 per ticket or admission. All other purchases of tickets or admissions to testimonial events shall be reported in an aggregate amount and shall not be subject to the limitations specified in K.S.A. 25-4154, and amendments thereto.

(e) If a contribution or other receipt from a political committee is required to be reported under subsection (b), the report shall include the full name of the organization with which the political committee is connected or affiliated or, a description of the connection to or affiliation with such organization. If, the committee is not connected or affiliated with any one organization, the report shall state the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.

(f) The commission may require any treasurer to file an amended report for any period for which the original report filed by such treasurer contains material errors or omissions.

The notice of the errors or omissions shall be part of the public record. The amended report shall be filed within 30 days after notice by the commission.

(g) The commission may require any treasurer to file a report for any period for which the required report is not on file. The notice of the failure to file shall be part of the public record. Such report shall be filed within five days after notice by the commission.

(h) For the purpose of any report required to be filed pursuant to subsection (a) by the treasurer of any candidate seeking nomination by convention or caucus or by the treasurer of the candidate's committee or by the treasurer of any party committee or political committee, the date of the convention or caucus shall be considered the date of the primary election.

(i) If a report is sent by certified or registered mail on or before the day it is due, the mailing shall constitute receipt by that office.

(j) Any report required by this section may be signed by the candidate in lieu of the candidate's treasurer or the treasurer of the candidate's committee.

Sec. 10. On July 1, 2009, K.S.A. 2008 Supp. 46-247 is hereby amended to read as follows: 46-247. The following individuals shall file written statements of substantial interests, as provided in K.S.A. 46-248 to 46-252, inclusive, and amendments thereto:

(a) Legislators and candidates for nomination or election to the legislature.

(b) Individuals holding an elected office in the executive branch of this state, and candidates for nomination or election to any such office.

(c) State officers, employees and members of boards, councils and commissions under the jurisdiction of the head of any state agency who are listed as designees by the head of a state agency pursuant to K.S.A. 46-285, and amendments thereto.

(d) Individuals whose appointment to office is subject to confirmation by the senate whether or not such individual is a state officer or employee.

(e) General counsels for state agencies irrespective of how compensated.

(f) The administrator or executive director of the education commission of the states, the interstate compact on agricultural grain marketing, the Mo-Kan metropolitan development district and agency compact, the Kansas City area transportation district and authority compact, the midwest nuclear compact, the central interstate low-level radioactive waste compact, the multistate tax compact, the Kansas-Oklahoma Arkansas river basin compact, the Kansas-Nebraska Big Blue river compact, and the multistate lottery.

(g) Private consultants under contract with any agency of the state of Kansas to evaluate bids for public contracts or to award public contracts.

(h) From and after January 1, 2003, any faculty member or other employee of a postsecondary educational institution as defined by K.S.A. 74-3201b, and amendments thereto, who provides consulting services and who, on behalf of or for the benefit of the person for which consulting services are provided:

(1) Promotes or opposes action or nonaction by any federal agency, any state agency as defined by K.S.A. 46-224, and amendments thereto, or any political subdivision of the state or any agency of such political subdivision or a representative of such state agency, political subdivision or agency; or

(2) promotes or opposes action or nonaction relating to the expenditure of public funds of the federal government, the state or political subdivision of the state or agency of the federal government, state or political subdivision of the state.

(i) \overline{From} and after January 1, 2006; Except as provided by section 11, and amendments thereto, any faculty member who receives an annual salary of \$50,000 or more, other than an adjunct faculty member, who is employed by a state education institution as defined by K.S.A. 76-711, and amendments thereto.

New Sec. 11. (a) The executive officer of any state educational institution as defined by K.S.A. 76-711, and amendments thereto, may require any faculty member who receives an annual salary of \$50,000 or more, other than an adjunct faculty member, to file a written statement of substantial interests with the employing state educational institution in lieu of filing the statements of substantial interests as required by K.S.A. 46-247, and amendments thereto. The executive officer shall notify the governmental ethics commission in writing of such decision to require filing of faculty statements of substantial interests only with the state educational institution. (b) The written statement of substantial interests filed with a state educational institution pursuant to this section shall, at a minimum, include the information required by K.S.A. 46-229, and amendments thereto, and shall be an open public record. Any conflict of interests information required by the state board of regents or state educational institution that is in addition to that which is required by K.S.A. 46-229, and amendments thereto, may be placed in the faculty member's personnel records file and discretionarily closed in accordance with K.S.A. 45-221, and amendments thereto.

(c) The written statement of substantial interests required by this section shall be in such form as required by the state board of regents and shall be filed annually as part of the state educational institution's appointment or salary notification process, and supplemented as required by the state board of regents.

(d) The provisions of this section shall take effect on July 1, 2009.

(e) The provisions of this section shall expire on July 1, 2010.

Sec. 12. K.S.A. 19-201, 19-202, 19-203, 19-204 and 19-204a and K.S.A. 2008 Supp. 74-2113 are hereby repealed.

Sec. 13. On July 1, 2009, K.S.A. 2008 Supp. 25-4148, 25-4156, 25-4156a and 46-247 are hereby repealed.";

And by renumbering the remaining section accordingly;

In the title, by striking all in lines 12 through 15 and inserting in lieu thereof the following: "AN ACT concerning elections and election related issues; amending K.S.A. 19-201, 19-202, 19-203, 19-204 and 19-204a and K.S.A. 2008 Supp. 25-4148, 25-4156, 46-247 and 74-2113 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 25-4156a.";

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

STEVE HUEBERT SCOTT SCHWAB TOM SAWYER Conferees on part of Senate

VICKI SCHMIDT PAT APPLE OLETHA FAUST-GOUDEAU Conferees on part of House

Senator V. Schmidt moved the Senate adopt the Conference Committee Report on HB 2158.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Taddiken.

Absent or Not Voting: Haley.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2162**, submits the following report:

The Senate recedes from all of its amendments to the bill;

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

JIM BARNETT VICKI SCHMIDT DAVID HALEY Conferees on part of Senate

BRENDA LANDWEHR DAVID CRUM GERALDINE FLAHARTY Conferees on part of House

Senator Barnett moved the Senate adopt the Conference Committee Report on HB 2162.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Haley.

The Conference Committee report was adopted.

ORIGINAL MOTION

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **S Sub for HB 2072**.

The President appointed Senators Vratil, McGinn and Kelly as second conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Kelly introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1892-

A RESOLUTION congratulating and commending Nicole Wayant.

WHEREAS, Nicole Wayant, a senior at Kansas State University, has received a Science and Mathematics Research for Transformation scholarship through the United States Department of Defense for graduate studies in geography, which includes payment of full tuition and employment placement in the department, and is the recipient of Kansas State's 2009 Presidential Award for Distinguished Undergraduate Student in Research for her work towards predicting disease outbreaks; and

WHEREAS, Nicole Wayant, a 2005 graduate of Topeka's Seaman High School, and the daughter of Bruce and Dawn Wayant, will graduate from Kansas State in May 2009. In the fall, she will pursue a master's in geography at the University of Nebraska-Lincoln prior to going to work for the United States Army Corps of Engineers Topographic Engineering Center in Alexandria, Virginia; and

WHEREAS, Wayant is a member of the Phi Kappa Phi honor society, an undergraduate research assistant in Kansas State's Remote Sensing Research Laboratory and an undergraduate scholar with Kansas State's Integrated Research Center. She was the inaugural recipient of the Abraham Anson Memorial Scholarship from the American Society of Photogrammetric and Remote Sensing and was named an Anderson Outstanding Senior in Academics by the Kansas State Alumni Association. She also has served as an intern with United States Senator Sam Brownback of Kansas; and

WHEREAS, The Department of Defense scholarship is designed to recruit civilian scientists and engineers to work for the department and is for students who demonstrate potential for a successful career in research and development. As the recipient of K-State's Presidential Award for Distinguished Undergraduate Student in Research, Wayant also will receive a \$1,000 award. The award was established to recognize outstanding individual contributions to the creation of new knowledge at Kansas State; and

WHEREAS, Nicole Wayant has been working on a project with Kansas State's Douglas Goodin, professor of geography and Diego Maldonado, assistant professor of mathematics. By linking vegetation with malaria, Wayant is developing a method to help determine when and where malaria outbreaks might occur. Nicole Wayant's analysis could have implications for the ability to predict malaria outbreaks before they happen; and WHEREAS, Through her outstanding work and research, Nicole Wayant has demonstrated the attributes and dedication of a true leader and model Kansan: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Nicole Wayant for her outstanding academic achievements, for receiving such a prestigious scholarship and for her valuable contributions to scientific research; and

Be it further resolved: That we wish Nicole Wayant continued success in her scholastic endeavors and that we expect to hear of more accomplishments in her bright future; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Laura Kelly.

On emergency motion of Senator Kelly SR 1892 was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on Assessment and Taxation recommends Substitute for HB 2365, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "SENATE Substitute for Substitute for HOUSE BILL No. 2365," as follows: "SENATE Substitute for Substitute for HOUSE BILL No. 2365

By Committee on Assessment and Taxation

"AN ACT concerning taxation; relating to settlement authority of secretary of revenue, certain assessments; income tax credits, limitations; valuation of land devoted to agricultural use for estate tax purposes; periods of limitation for certain refunds and credits; sales tax exemptions; homestead property tax refunds; amending K.S.A. 2008 Supp. 79-15,253, 79-3230, 79-32,211, 79-32,258, 79-3606, 79-3609 and 79-4502 and repealing the existing sections.";

and the substitute bill be passed.

Committee on Public Health and Welfare recommends HB 2366 be passed.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **HB 2283; S Sub for Sub HB 2365; HB 2366; S Sub for HB 2369; HB 2374**.

ORIGINAL MOTION

On emergency motion of Senator D. Schmidt, **S Sub for Sub HB 2365**; **HB 2366** were advanced on the calendar under the heading of General Orders to the first order of business.

COMMITTEE OF THE WHOLE

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

On motion of Senator Teichman the following report was adopted:

Recommended **HB 2366** be passed.

The committee report on **HB** 2369 recommending a **S Sub for HB 2369** be adopted, and the substitute bill be passed.

A motion by Senator Franciso to amend **S Sub for HB 2369** failed and the following amendment was rejected: on page 14, in line 43, after "(c)" by inserting "(1)";

On page 15, in line 2, by striking "(1)" and inserting "(A)"; in line 5, by striking "(2)" and inserting "(B)"; in line 10, by striking "(3)" and inserting "(C)"; in line 18, by striking "(4)" and inserting "(D)"; in line 22, by striking "(5)" and inserting "(E)"; after line 22, by inserting the following:

"(2) To be exempt under subsection (b), a generation and transmission cooperative shall poll the aggregate retail customers of its members as follows:

(A) An election under this subsection shall be called not less than 180 days after receipt of a valid petition signed by not less than 10% of the retail customers of the cooperative.

(B) The proposition for deregulation shall be presented to a meeting of the retail customers of such cooperative proposing deregulation, the notice of which shall set forth the proposition for deregulation and the time and place of the meeting. Notice to the retail customers of such cooperative proposing deregulation shall be written and delivered not less than 21 nor more than 45 days before the date of the meeting of such member electric cooperative.

(C) If the cooperative mails information to its retail customers regarding the proposition for deregulation other than notice of the election and the ballot, the cooperative shall also include in such mailing any information in opposition to the proposition that is submitted by petition signed by not less than 1% of the cooperative's retail customers. All expenses incidental to mailing the additional information, including any additional postage required to mail such additional information, must be paid by the signatories to the petition.

(D) If the proposition for deregulation is approved by the affirmative vote of not less than a majority of the retail customers voting on the proposition, such cooperative shall notify the state corporation commission in writing of the results within 10 days after the date of the election.

(E) Voting on the proposition for deregulation shall be by mail ballot.";

On page 16, in line 24, after "members" by inserting "and retail customers"; in line 25, after "members" by inserting "and retail customers"

A second motion by Senator Franciso to amend **S Sub for HB 2369** failed and the following amendment was rejected: on page 16, in line 3, before the period, by inserting "or 750 retail customers of the members of the generation and transmission cooperative, whichever is less"; in line 24, after "members" by inserting "and retail customers"; in line 25, after "members" by inserting "and retail customers"

Senator Franciso withdrew an amendment on S Sub for HB 2369.

S Sub for HB 2365 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Donovan, on page 43, of the typed version of the bill, in line 23, by striking "and" the second time it appears; in line 26, after the semicolon, by inserting "and"; after line 26, by inserting the following:

"(24) the Kansas fairgrounds foundation for the purpose of the preservation, renovation and beautification of the Kansas state fairgrounds;";

On page 72, of the typed version of the bill, in line 16, by striking "and"; in line 23, by striking the period and inserting a semicolon; following line 23, by inserting the following:

"(eeee) all sales of tangible personal property or services purchased by or on behalf of All American Beef Battalion, Inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of educating, promoting and participating as a contact group through the beef cattle industry in order to carry out such projects that provide support and morale to members of the United States armed forces and military services; and

(ffff) all sales of tangible personal property and services purchased by sheltered living, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing residential and day services for people with developmental disabilities or mental retardation, or both, and all sales of any such property by or on behalf of sheltered living, inc. for any such purpose, and all sales of tangible personal property or services purchased by a contractor for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling homes and facilities for sheltered living, inc. for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by sheltered living, inc. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities for sheltered living, inc. When sheltered living, inc. contracts for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to sheltered living, inc. a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years

and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, sheltered living, inc. shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto."

S Sub for HB 2365 be further amended by motion of Senator D. Schmidt, on page 2, of the typed version of the bill, in line 12, by striking "The" and inserting "Except as otherwise provided by subsections (c) and (d), the";

On page 3, of the typed version of the bill, after line 1, by inserting the following:

"(c) For any tax credit or credits earned pursuant to K.S.A. 79-32,160a, and amendments thereto, other than tax credits earned pursuant to subsection (e) of K.S.A. 79-32,160a, and amendments thereto, in a tax year prior to 2009 and carried forward from such prior tax year and claimed in tax years 2009 or 2010, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year after 2010, pursuant to subsection (a), may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 79-32,160a, and amendments thereto.

(d) For any tax credit earned pursuant to subsection (e) of K.S.A. 79-32,160a, and amendments thereto, by a taxpayer qualified and certified under the provisions of K.S.A. 74-50,131, and amendments thereto, who has received prior to June 1, 2009, written approval from the secretary of commerce of a certificate of intent to invest in a qualified business facility, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year determined pursuant to subsection (a), may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 79-32,160a, and amendments thereto." and **S Sub for HB 2365** be passed as amended.

HB 2283 be amended by adoption of the committee amendments, be further amended by motion of Senator Apple, on page 2, in line 35, by striking "and"; after line 35, by inserting the following:

"(J) the average increase in the number of benefit units in the area annexed for the three years immediately preceding such annexation; and";

Also on page 2, in line 36, by striking "(J)" and inserting "(K)"; also in line 36, before the period, by inserting "as agreed to by the three appointed appraisers" and **HB 2283** be passed as further amended.

HB 2374 be amended by adoption of the committee amendments, be further amended by motion of Senator McGinn, on page 33, in line 13, by striking all after "(a)"; by striking all in lines 14 through 19; in line 20, by striking "(b)"; after line 23 by inserting the following:

"(b) This additional benefit may be provided to a claimant in a shared work program under K.S.A. 44-757, and amendments thereto. However, if the claimant is in a shared work program then such claimant shall not be entitled to receive this additional benefit for two consecutive benefit years after the training benefits expire. In addition, a claimant who is receiving shared work benefits when they become eligible for these additional benefits shall have their payable amount determined in the same manner as their shared work benefits." and **HB 2374** be passed as further amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and **HB 2283; S Sub for Sub HB 2365; HB 2366; S Sub for HB 2369; HB 2374** were advanced to Final Action and roll call.

HB 2283, An act concerning water; amending K.S.A. 82a-1036 and K.S.A. 2008 Supp. 82a-612 and 82a-646 and repealing the existing sections; also repealing K.S.A. 12-527.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Haley.

The bill passed, as amended.

S Sub for Sub HB 2365, An act concerning taxation; relating to settlement authority of secretary of revenue, certain assessments; income tax credits, limitations; valuation of land devoted to agricultural use for estate tax purposes; periods of limitation for certain refunds and credits; sales tax exemptions; homestead property tax refunds; amending K.S.A. 2008 Supp. 79-15,253, 79-3230, 79-32,211, 79-32,258, 79-3606, 79-3609 and 79-4502 and repealing the existing sections.

On roll call, the vote was: Yeas 25, Nays 14, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Kelly, Kultala, Lee, Lynn, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Barnett, Brownlee, Bruce, Colyer, Huelskamp, Kelsey, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Wagle.

Absent or Not Voting: Haley.

The substitute bill passed, as amended.

HB 2366, An act concerning all-inclusive care for the elderly (PACE) program; amending K.S.A. 65-5112 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Haley.

The bill passed.

S Sub for HB 2369, An act concerning energy; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 19-101a, 55-1,117, 65-3012 and 66-104d and K.S.A. 2008 Supp. 65-3005, 65-3008a, 66-1,184, 74-99d07 and 74-99d14 and repealing the existing sections; also repealing K.S.A. 19-101a, as amended by section 7 of 2009 Senate Bill No. 336, and 19-101m.

On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Francisco, Wysong.

Absent or Not Voting: Haley.

The substitute bill passed.

HB 2374, An act concerning employment security law; relating to alternative base periods, approved job training and part-time employees' eligibility for benefits; amending K.S.A. 2008 Supp. 44-703, 44-704c and 44-705 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Haley.

The bill passed, as amended.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to Senate Substitute for HB 2373.

The House concurs in Senate amendments to **HB 2010**, and requests return of the bill.

VETO SUSTAINED

President Morris announced the time had arrived for consideration of the Governor's veto on **House Substitute for SB 218**, An act concerning abortion; regarding restrictions on late term and partial birth abortion; amending K.S.A. 65-445, 65-6701, 65-6703, 65-6709, as amended by section 1 of 2009 HOUSE Substitute for Senate Bill No. 238 and 65-6721 and K.S.A. 2008 Supp. 65-2836 and repealing the existing sections; also repealing K.S.A. 65-6713, which was received on April 23, 2009, and was read before the Senate on April 29, 2009.

Senator Pilcher-Cook moved that notwithstanding the Governor's veto, **H Sub for SB** 218 be passed.

On roll call, the vote was: Yeas 25, Nays 13, Present and Passing 1, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Taddiken, Umbarger, Wagle.

Nays: Brungardt, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Kelly, Kultala, Schmidt V, Schodorf, Steineger, Vratil, Wysong.

Present and Passing: Teichman.

Absent or Not Voting: Haley.

A two-thirds constitutional majority having not voted in favor of overriding the Governor's veto, the motion did not prevail and the veto was sustained.

On motion of Senator D. Schmidt the Senate adjourned until 11:00 a.m., Friday, May 8, 2009.

Journal of the Senate

SIXTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Friday, May 8, 2009—11:00 a.m.

The Senate was called to order by President Stephen Morris. The roll was called with thirty-nine senators present. Senator Haley was excused. Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I pray this prayer trusting in Your sense of Humor... And perhaps the Senate's sense of humor, also

We would like to go home. We're tired and we want to go to bed. None of us are totally satisfied, And none of us are totally sad.

Wherever we may roam Under the old green dome, You're going to hear us singing this song Show us the way to go We really need to go Oh, How we want to go home.

AMEN!

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Lynn, Brownlee and Colyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1893-

A RESOLUTION congratulating and thanking Ed and Judy Colson.

WHEREAS, After over 60 years of combined service to the Olathe Bands programs with the Olathe Schools, Ed and Judy Colson plan to retire from the Olathe District Schools; and

WHEREAS, Ed and Judy Colson both graduated from Baker University with Masters Degrees in 1988 and began their teaching careers in rural Kansas prior to joining the Olathe School District; and

WHEREAS, Ed Colson is the Director of Bands at Olathe Northwest High School. Ed is a co-founder of the new Kansas City Jazz Festival held in Kansas City's historic 18th and Vine District and is also on the Board of Directors for the Johnson County Wind Symphony; and

WHEREAS, Ed received the National Band Association Award for Outstanding Jazz Education in 1993 and is listed in the 2006 edition of Outstanding American Teachers and the 2008 edition of Who's Who in America; and WHEREAS, In 2008, the Olathe News listed Ed as number 40 on their list of the 150 most notable people in Olathe's 150-year history. Ed is very involved in the community. He is on Olathe's Sister Cities Committee, is musical coordinator for Winterfest and is the conductor of the Olathe Civic Band, a position he has held since 1999; and

WHEREAS, Judy Colson is the Associate Director at Olathe Northwest High School and is in her thirty-first year of teaching band in Kansas. In addition to her work with Olathe Northwest Bands, she is a sponsor of the ONW Tri-M Music Honor Society and performs with the Olathe Civic Band; and

WHEREAS, In September of 2002, Judy Colson was awarded the Olathe Public Schools Foundation Educator Excellence Award and is listed in the 2009 edition of Who's Who of American Women; and

WHEREAS, The combined 60 years of contributions that Ed and Judy Colson have provided to the advancement of music education in Kansas have been invaluable: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we thank Ed and Judy Colson for their many years of wonderful service enriching many students' lives and that we congratulate them on their retirement and wish them continued success and happiness; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Julia Lynn.

On emergency motion of Senator Lynn SR 1893 was adopted unanimously.

Senator Lynn introduced and congratulated Ed and Judy Colson upon their combined 60 years service in the Olathe District Schools. Members of the Colson family, friends and students were also in attendance.

Senators Lynn, Brownlee and Colyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1894-

A RESOLUTION congratulating the Olathe North Culinary Arts students.

WHEREAS, The Olathe North Culinary Arts students won second place in the National ProStart Invitational, a culinary competition featuring 39 high school culinary programs in which the students must produce a 3 course meal including appetizer, entre and dessert in 60 minutes utilizing only 2 butane burners; and

WHEREAS, The Olathe School District Culinary Arts program encompasses students from all four high schools within the school district and three of the high schools are represented on the team; and

WHEREAS, Under the instruction of Certified Culinary Instructor Chef Mike Chrostowski, this is the fourth year in a row that the Olathe North Culinary Arts students have attended the national competition; and

WHEREAS, The students on the Olathe North Culinary Arts team are Ryne Schnabel, Olathe North Senior; Jamie Lyons, Olathe North Senior; Juan Jasso-Mendoza, Olathe North Senior; Kealan O'Boyle, Olathe Northwest Junior; and Chris Roudebush, Olathe South Junior; and

WHEREAS, The menu prepared by the students included an appetizer of poached Maine lobster tail with a spring pea and carrot risotto topped with sauted bell peppers and frise and laced with a citrus beure blanc; an entree of toasted coriander and cumin encrusted rack of lamb with crisp latkes and shiitake mushroom ragout in a pool of rich sherry demi glace; and Madagascar vanilla infused crme caramel accompanied by a blackberry coulis and garnished with pulled sugar hazelnut, cocoa nib brittle on a chocolate painted plate for dessert; and

WHEREAS, The program, entitled "Top of the Class with Guy Fiere", was taped by the Food Network and will air sometime in the next three months; and

WHEREAS, As a result of this year's state and national competitions, the Olathe North Culinary Arts students have been awarded \$521,000 in scholarships; and

WHEREAS, The members of the team are a diverse group with little in common besides their love for cooking, but through hard-work and determination were able to band together to create a meal worthy of such high recognition: Now, therefore, Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Olathe North Culinary Arts students for their outstanding talent in crafting such an amazing meal and that we wish them future culinary success; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Julia Lynn.

On emergency motion of Senator Lynn SR 1894 was adopted unanimously.

Senator Lynn introduced and congratulated the Olathe North Culinary Team:

Ryne Schnabel, Jamie Lyons, Keelan O'Boyle, Christopher Roudebush, Juan Jasso-Mendoza and their instructor, Chef Mike Chrostowski.

Senator Colyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1895-

A RESOLUTION commemorating the quincentenary of the birth of Andreas Palladio who inspired the design of the Kansas Capitol.

WHEREAS, November 30, 2008 was the 500th anniversary of the birth of Andreas Palladio and this anniversary year is being celebrated around the world; and

WHEREAS, The design of the Kansas State Capitol, based on Palladio's Villa Rotonda, began in 1566 with a dome and four symmetrical porticos. Furthermore, the architectural design of the United States Capitol, by physician William Thornton, was selected by Thomas Jefferson and George Washington because of its Palladian design; and

WHEREAS, Andreas Palladio, who began as a poor stone mason who studied Vitruvius and ancient buildings and wrote the *I Quattro Libri dell'Architettura*, which Thomas Jefferson called his "bible" and became the world's most influential architect, emphasizing symmetry, proportion, the use of classical orders and the idea of blending landscape with architecture; and

WHEREAS, Many of Palladio's buildings, including Villa Rotonda, Villa Poiana, Villa Emo, Villa Barbaro, La Malcontenta, and Church of Il Redentore, are honored as United Nations World Heritage Sites; and

WHEREAS, Palladio inspired generations of architects such as Inigo Jones, Thomas Jefferson, Frank Lloyd Wright, Christopher Wren, Le Corbusier and L.M. Pei and informed the design of many of the world's iconic buildings including the U.S. Capitol, the White House, Montecello, Buckingham Palace, St. Paul's Cathedral, the Library of Congress, the Supreme Court and Kansas' notable buildings including the Kansas State Capitol, the Cathedral of the Plains, Villa NeoPoiana, the University of Kansas' Strong Hall and the home of Alf Landon; and

WHEREAS, Palladio's influence can be seen in the everyday homes of all Kansans in their front porches, columns and pediments, the symmetry and landscaping that blends their home with the surrounding countryside and their practical functionality in design; and

WHEREAS, Palladio's harmonic proportions, use of classical orders and symmetry inspired Thomas Jefferson, George Washington and our founding fathers as the architectural embodiment of our young democracy; and

WHEREAS, In this very Senate chamber, Palladio's vision sets the tone for our deliberations and the Palladian loggias on both sides of this chamber emphasize harmony and are often the site for some of our more substantive service for Kansas: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor Palladio on his quincentenary and that we encourage all Kansans to recognize their profound Palladian heritage in Kansas and our American democracy; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Jeffrey Colyer; Barry Gries, the Architect of the State House; William Groth, the former Architect of the State House; Jeffrey Russell, Director of Legislative Services; Vance Kelley, Treanor Architects Consulting; the Kansas Historical Society; the University of Kansas School of Architecture; the Center for Palladian Studies in America; the Centro Internazionale de Studi di Architettura Andrea Palladio, Vicenza; the Royal Institute of British Architects; the curators and custodians of Montecello, Rotunda, Poiana and Palladio's patrimony; and the Envoy Extraordinary and Minister Plenipotentiary, the Ambassador of Italy.

On emergency motion of Senator Colyer SR 1895 was adopted unanimously.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

AFTERNOON SESSION

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following resolution was introduced and read by title:

SENATE CONCURRENT RESOLUTION No. 1618-

By Senators Umbarger, Kultala and Marshall

A CONCURRENT RESOLUTION urging the legislature to formulate and implement a comprehensive transportation plan by the 2010 legislative session.

WHEREAS, Transportation connects Kansans to their workplaces, to the institutions that matter to them, and to the services upon which they depend. Transportation is also critical to delivering Kansas products to markets, seizing economic opportunities and creating jobs that stimulate our economy; and

WHEREAS, Our Kansas transportation system is comprised of railroads, airports, passenger rail, transit, roads and bridges; and

WHEREAS, The state has successfully completed the 1989 Comprehensive Highway Program and the 1999 Comprehensive Transportation Program and now faces the challenges of addressing the state's transportation needs for the coming future; and

WHEREAS, More than 2,000 people lost their lives on Kansas roads in the last 5 years, demonstrating an ongoing need to improve the condition and quality of our public roads and bridges to improve the safety of travelers in our state; and

WHEREAS, The state's population is projected to increase by 11 percent in the next 20 years, and over the same time period vehicle and truck traffic is expected to increase by 44 and 97 percent respectively; and

WHEREAS, Transit ridership is on the rise, the importance of freight movement by railroads is increasing, the state's airports are in need of improvement, county and local roads are in need of repair, and intercity train travel is attracting more interest; and

WHEREAS, Transportation revenues are projected to fall short of future transportation needs as documented in the Kansas Long Range Transportation Plan; and

WHEREAS, Over the last 20 years Kansas has made a major investment in our transportation systems and projections indicate that without additional revenue the percent of the state's highways rated in good condition will drop from 83 percent in 2008 to less than 50% in 2020. It would be wasteful to lose our investment because we did not responsibly care for our transportation infrastructure; and

WHEREAS, The state and the country is in the greatest recession since the Great Depression of the 1930s, and transportation construction would provide an economic stimulus to the state through the employment of thousands of men and women in the improvement of our state's transportation infrastructure; and

WHEREAS, All 105 Kansas counties and more than 200 Kansas cities have formally adopted resolutions in support of a new comprehensive transportation plan; and

WHEREAS, Funding of a new Comprehensive Transportation Program was not possible this year as a result of the weakened economy of the state; and

WHEREAS, The T-LINK Task Force met in 2008 over a period of five months, held statewide meetings attended by over 850 Kansans, concluded that a new transportation program is needed and widely supported, and developed a set of recommendations for the state's transportation system; and

WHEREAS, The Legislature's Special Committee on a new Comprehensive Transportation Plan held six meetings across the state, heard testimony from over 120 Kansans, and concluded that a new transportation program is needed and supported; and WHEREAS, Any new transportation plan should build on the body of work already created by the T-LINK Task Force and the Special Committee on a new Comprehensive Transportation Plan: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That we undertake efforts during the 2009 legislative interim to develop a plan to present to the 2010 Session of the Kansas Legislature and Governor for funding a new, multi-year transportation plan that recognizes the needs of both rural and urban Kansas, supports the economic priorities of the state, and uses the strength of all modes of transportation to help stimulate the state's economic recovery.

REFERRED TO COMMITTEE

President Morris referred SCR 1618 to the Committee of the Whole.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to Senate Substitute for HB 2369.

The House nonconcurs in Senate amendments to **Senate Substitute for Substitute HB 2365**, requests a conference and appoints Representatives Carlson, King and Menghini as conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **S Sub for Sub HB 2365**.

The President appointed Senators Donovan, D. Schmidt and Holland as conferees on the part of the Senate.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **S Sub for HB 2072; HB 2214.**

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2072**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2072, as follows:

On page 2, in line 10, by striking "2009" and inserting "2006"; also in line 10, before "em-" by inserting "first"; in line 14, by striking "March" and inserting "April"; in line 25, by striking all after "paid"; in line 26, by striking "thereafter,"; in line 27, by striking "\$25,000" and inserting "\$20,000"; in line 30, by striking "March" and inserting "April"; On page 3, in line 9, by striking "March" and inserting "April"; in line 32, by striking all

On page 3, in line 9, by striking "March" and inserting "April"; in line 32, by striking all after "paid"; in line 33, by striking all before "an"; in line 35, by striking "\$25,000" and inserting "\$20,000";

On page 5, in line 11, after "(1)" by inserting "of K.S.A. 74-4914, and amendments thereto,"; in line 12, after "(4)" by inserting "of K.S.A. 74-4914, and amendments thereto,"; in line 14, by striking "and K.A.R."; in line 15, by striking "91-1-203"; also in line 15, after "thereto" by inserting ", or other provision of law"; in line 16, after "(4)" by inserting "of K.S.A. 74-4914, and amendments thereto,"; in line 20, after "participation" by inserting "or employed by a third-party entity who contracts services with a school district to fill a position as described in this subsection"; in line 23, by striking all after "plus"; by striking all in lines 24 and 25; in line 26, by striking all before "Nothing" and inserting "8%. The provisions of this subsection (5) of K.S.A. 74-4914, and amendments thereto, shall be applicable to retirants employed as described in this subsection, except as specifically provided in this subsection.";

Ôn page 7, in line 38, by striking all after "(10)"; by striking all in lines 39 through 43;

On page 8, by striking all in lines 1 through 4; in line 5, by striking "(11)"; in line 10, by striking "(12)" and inserting "(11)"; in line 24, by striking "(13)" and inserting "(12)"; in line

26, by striking "(14)" and inserting "(13)"; in line 31, by striking "(15)" and inserting "(14)";

in line 35, by striking "(16)" and inserting "(15)"; by striking all in lines 39 through 43;

By striking all on page 9;

On page 10, by striking all in lines 1 through 19 and inserting the following:

"New Sec. 4. Any member of the Kansas public employees retirement system may purchase up to two years of participating service credit for service as approved, directly related journeyman experience above the apprenticeship as required by K.A.R. 91-1-39 prior to the revocation of such regulation on June 30, 2003, for day trade, personal service and public service teachers which commenced on or after January 1, 1962. Such purchase of participating service credit shall be made in accordance with the provisions of K.S.A. 74-49,123, and amendments thereto. The benefit for each such period of service purchased by the member shall be equal to 1.75% of the final average salary of any such member. Such member may purchase such participating service credit by submitting proof of such service acceptable to the board of trustees and by making application therefor prior to the date of retirement of such member for such purchase and to have such member's employee contributions deducted from such member's compensation at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. 74-4919, and amendments thereto, based upon the member's attained age at the time of purchase and using actuarial assumptions and tables in use by the retirement system at such time of purchase for such periods of service. Such additional rate of contribution shall commence at the beginning of the quarter following the date upon which such member made application for such purchase and shall remain in effect until all of the full quarters of such service have been purchased. In lieu of the deduction of employee contributions as provided in this section, any such member may purchase such participating service credit by means of a single lump-sum payment in an amount equal to the then present value of benefits being purchased as determined by the actuary using the member's attained age at the time of purchase, annual compensation at the time of purchase and the actuarial assumptions and tables currently in use by the system. The lump-sum payment shall be made immediately upon being notified of the amount due under this purchase method. The provisions of this section shall be part of and supplemental to the provisions of K.S.A. 74-4901 et seq., and amendments thereto.

Sec. 5. K.S.A. 2008 Supp. 74-4920 is hereby amended to read as follows: 74-4920. (1) (a) Upon the basis of each annual actuarial valuation and appraisal as provided for in subsection (3)(a) of K.S.A. 74-4908 and amendments thereto, the board shall certify, on or before July 15 of each year, to the division of the budget in the case of the state and to the agent for each other participating employer an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the system, to be paid by each such participating employer to pay all liabilities which shall exist or accrue under the system, including amortization of the actuarial accrued liability as determined by the board. The board shall determine the actuarial cost method to be used in annual actuarial valuations, to determine the employer contribution rates that shall be certified by the board. Such certified rate of contribution, amortization methods and periods and actuarial cost method shall be based on the standards set forth in subsection (3)(a) of K.S.A. 74-4908 and amendments thereto and shall not be based on any other purpose outside of the needs of the system.

(b) (i) For employers affiliating on and after January 1, 1999, upon the basis of an annual actuarial valuation and appraisal of the system conducted in the manner provided for in K.S.A. 74-4908 and amendments thereto, the board shall certify, on or before July 15 of each year to each such employer an actuarially determined estimate of the rate of contribution which shall be required to be paid by each such employer to pay all of the liabilities which shall accrue under the system from and after the entry date as determined by the board, upon recommendation of the actuary. Such rate shall be termed the employer's participating service contribution and shall be uniform for all participating employers. Such additional liability shall be amortized as determined by the board. For all participating employers described in this section, the board shall determine the actuarial cost method to be used in annual actuarial valuations to determine the employer contribution rates that shall be certified by the board.

(ii) The board shall determine for each such employer separately an amount sufficient to amortize all liabilities for prior service costs which shall have accrued at the time of entry into the system. On the basis of such determination the board shall annually certify to each such employer separately an actuarially determined estimate of the rate of contribution which shall be required to be paid by that employer to pay all of the liabilities for such prior service costs. Such rate shall be termed the employer's prior service contribution.

(2) The division of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services the sum required to satisfy the state's obligation under this act as certified by the board and shall present the same to the legislature for allowance and appropriation.

(3) Each other participating employer shall appropriate and pay to the system a sum sufficient to satisfy the obligation under this act as certified by the board.

(4) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which such contribution is made is paid from or from any other funds available to it for such purpose. Each political subdivision, other than an instrumentality of the state, which is by law authorized to levy taxes for other purposes, may levy annually at the time of its levy of taxes, a tax which may be in addition to all other taxes authorized by law for the purpose of making its contributions under this act and, in the case of cities and counties, to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774 and amendments thereto by cities located in the county, which tax, together with any other fund available, shall be sufficient to enable it to make such contribution. In lieu of levying the tax authorized in this subsection, any taxing subdivision may pay such costs from any employee benefits contribution fund established pursuant to K.S.A. 12-16,102 and amendments thereto. Each participating employer which is not by law authorized to levy taxes as described above, but which prepares a budget for its expenses for the ensuing year and presents the same to a governing body which is authorized by law to levy taxes as described above, may include in its budget an amount sufficient to make its contributions under this act which may be in addition to all other taxes authorized by law. Such governing body to which the budget is submitted for approval, may levy a tax sufficient to allow the participating employer to make its contributions under this act, which tax, together with any other fund available, shall be sufficient to enable the participating employer to make the contributions required by this act.

(5) (a) The rate of contribution certified to a participating employer as provided in this section shall apply during the fiscal year of the participating employer which begins in the second calendar year following the year of the actuarial valuation.

(b) (i) Except as specifically provided in this section, for fiscal years commencing in calendar year 1996 and in each subsequent calendar year, the rate of contribution certified to the state of Kansas shall in no event exceed the state's contribution rate for the immediately preceding fiscal year by more than 0.2% of the amount of compensation upon which members contribute during the period.

(ii) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to the state of Kansas and to the participating employers under K.S.A. 74-4931, and amendments thereto shall in no event exceed the state's contribution rate for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar year 2005, an amount not to exceed more than 0.4% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2006, an amount not to exceed more than 0.5% of the amount of the immediately preceding fiscal year; and (C) for the fiscal year commencing in calendar year 2007 and in each subsequent calendar year, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year.

(iii) Except as specifically provided in this section, for fiscal years commencing in calendar year 1997 and in each subsequent calendar year, the rate of contribution certified to participating employers other than the state of Kansas shall in no event exceed such participating employer's contribution rate for the immediately preceding fiscal year by more than 0.15% of the amount of compensation upon which members contribute during the period. (iv) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to participating employers other than the state of Kansas shall in no event exceed the contribution rate for such employers for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar year 2006, an amount not to exceed more than 0.4% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2007, an amount not to exceed more than 0.5% of the amount of the immediately preceding fiscal year; and (C) for the fiscal year commencing in calendar year 2008 and in each subsequent calendar year, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year.

(v) As part of the annual actuarial valuation, there shall be a separate employer rate of contribution calculated for the state of Kansas, a separate employer rate of contribution calculated for participating employers under K.S.A. 74-4931 and amendments thereto, a combined employer rate of contribution calculated for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, and a separate employer rate of contribution calculated for all other participating employers.

(vi) There shall be a separate combined employer rate of contribution certified to the state of Kansas. There shall be a separate employer rate of contribution certified to and participating employers under K.S.A. 74-4931, and amendments thereto. There shall be a separate employer rate of contribution certified to all other participating employers.

(vii) If the combined employer rate of contribution calculated for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, is greater than the separate employer rate of contribution for the state of Kansas, the difference in the two rates applied to the actual payroll of the state of Kansas for the applicable fiscal year shall be calculated. This amount shall be certified by the board as additional employer contributions for the participating employers under K.S.A. 74-4931, and amendments thereto, to the division of budget and governor who shall include in the budget each year thereafter provisions for the transfer from the state general fund of sufficient sums to satisfy this obligation. This amount shall be distributed through the same procedure as followed for the employer contribution payments under K.S.A. 74-4939 and K.S.A. 74-4939a, and amendments thereto, and then remitted by the participating employers to the Kansas public em-ployces retirement system for deposit as additional employer contributions to the retirement benefit accumulation reserve for the participating employers under K.S.A. 74-4931, and amendments thereto.

(6) The actuarial cost of any legislation enacted in the 1994 session of the Kansas legislature will be included in the June 30, 1994, actuarial valuation in determining contribution rates for participating employers.

(7) The actuarial cost of the provisions of K.S.A. 74-4950i will be included in the June 30, 1998, actuarial valuation in determining contribution rates for participating employers. The actuarial accrued liability incurred for the provisions of K.S.A. 74-4950i shall be amortized over 15 years.

(8) Except as otherwise provided by law, the actuarial cost of any legislation enacted by the Kansas legislature, except the actuarial cost of K.S.A. 74-49,114a, and amendments thereto, shall be in addition to the employer contribution rates certified for the employer contribution rate in the fiscal year immediately following such enactment.

(9) Notwithstanding the provisions of subsection (8), the actuarial cost of the provisions of K.S.A. 74-49,109 et seq., and amendments thereto shall be first reflected in employer contribution rates effective with the first day of the first payroll period for the fiscal year 2005. The actuarial accrued liability incurred for the provisions of K.S.A. 74-49,109 et seq., and amendments thereto shall be amortized over 10 years.

(10) The cost of the postretirement benefit payment provided pursuant to the provisions of K.S.A. 2008 Supp. 74-49,114b, and amendments thereto, for retirants other than local retirants as described in subsection (11) or insured disability benefit recipients shall be paid in the fiscal year commencing on July 1, 2007.

(11) The actuarial accrued liability incurred for the provisions of K.S.A. 2008 Supp. 74-49,114b, and amendments thereto, for the KPERS local group and retirants who were employees of local employers which affiliated with the Kansas police and firemen's retirement system shall be amortized over 10 years.

(12) The cost of the postretirement benefit payment provided pursuant to the provisions of K.S.A. 2008 Supp. 74-49,114c, and amendments thereto, for retirants other than local retirants as described in subsection (13) or insured disability benefit recipients shall be paid in the fiscal year commencing on July 1, 2008.

(13) The actuarial accrued liability incurred for the provisions of K.S.A. 2008 Supp. 74-49,114c, and amendments thereto, for the KPERS local group and retirants who were employees of local employers which affiliated with the Kansas police and firemen's retirement system shall be amortized over 10 years.

(14) The board with the advice of the actuary may fix the contribution rates for participating employers joining the system after one year from the first entry date or for employers who exercise the option contained in K.S.A. 74-4912 and amendments thereto at rates different from the rate fixed for employers joining within one year of the first entry date.

(15) For employers affiliating on and after January 1, 1999, the rates of contribution certified to the participating employer as provided in this section shall apply during the fiscal year immediately following such certification, but the rate of contribution during the first year following the employer's entry date shall be equal to 7% of the amount of compensation on which members contribute during the year. Any amount of such first year's contribution which may be in excess of the necessary current service contribution shall be credited by the board to the respective employer's prior service liability.

(16) Employer contributions shall in no way be limited by any other act which now or in the future establishes or limits the compensation of any member.

(17) Notwithstanding any provision of law to the contrary, each participating employer shall remit quarterly, or as the board may otherwise provide, all employee deductions and required employer contributions to the executive director for credit to the Kansas public employees retirement fund within three days after the end of the period covered by the remittance by electronic funds transfer. Remittances of such deductions and contributions received after such date are delinquent. Delinquent payments due under this subsection shall be subject to interest at the rate established for interest on judgments under subsection (a) of K.S.A. 16-204 and amendments thereto. At the request of the board, delinquent payments which are due or interest owed on such payments, or both, may be deducted from any other moneys payable to such employer by any department or agency of the state.";

And by renumbering sections accordingly;

Also on page 10, in line 20, after "74-4914" by inserting ", 74-4920";

On page 1, in the title, in line 11, by striking "membership election,"; in line 12, by striking all before "amending" and by inserting "purchase of service credit; state and school employer contribution rate;"; in line 13, after "74-4914" by inserting ", 74-4920";

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

JOHN VRATIL CAROLYN MCGINN LAURA KELLY Conferees on part of Senate

SHARON SCHWARTZ CLARK SHULTZ GERALDINE FLAHARTY Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **S Sub for HB 2072**.

On roll call, the vote was: Yeas 37, Nays 1, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp. Absent or Not Voting: Bruce, Haley. The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2214**, submits the following report:

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

On page 1, by striking all in lines 19 through 43;

By striking all on pages 2 through 25;

On page 26, by striking all in lines 1 through 38 and inserting the following:

"New Section 1. The provisions of sections 1 through 5, and amendments thereto, shall be known and may be cited as the controlled insurance programs act.

New Sec. 2. As used in the controlled insurance programs act:

(a) "Commissioner" means the commissioner of insurance.

(b) "Completed operations liability" has the meaning ascribed thereto in K.S.A. 40-4101, and amendments thereto.

(c) The terms "construction," "contract," "contractor," "owner," "person" and "sub-contractor" have the meanings ascribed thereto in K.S.A. 16-1802, and amendments thereto.

(d) "Controlled insurance program" means a program of liability or workers compensation insurance coverage, or both, that is established by an owner or contractor who contractually requires participation by contractors or subcontractors who are engaged in work required by a construction contract. Controlled insurance programs shall include, but not be limited to, coverage programs that are for a fixed term of coverage on a single construction site or project or multiple projects, and a consolidated or wrap-up insurance program as the term is used in subsection (b)(3) of K.S.A. 16-1803, and amendments thereto. A controlled insurance program subject to this act shall not include surety or builders risk.

(e) "Participant" means any contractor or subcontractor whose participation in a controlled insurance program is required by a construction contract.

(f) "Sponsoring participant" means the owner or contractor who establishes the controlled insurance program.

(g) "Substantial completion" shall have the meaning ascribed to it in K.S.A. 16-1902 and amendments thereto.

New Sec. 3. The commissioner by rules and regulations, shall require that:

(a) Controlled insurance programs shall:

(1) Establish a method for quarterly reporting of the participant's respective claims details and loss information to that participant;

(2) provide that cancellation of any or all of the coverage provided to a participant prior to completion of work on the applicable project, shall require the owner or contractor who establishes a controlled insurance program to either replace the insurance or pay the sub-contractor's cost to do so;

(3) not charge enrolled participants who are not the sponsoring participants, a deductible in excess of \$2,500 per occurrence or a per claim assessment by the sponsor;

(4) keep self-insured retentions fully funded or collateralized by the owner or contractor establishing the controlled insurance program. This paragraph shall not apply to deductible programs;

(5) disclose specific requirements for safety or equipment prior to accepting bids from contractors and subcontractors on a construction project; and

(6) allow monetary fines for alleged safety violations to be assessed only by government agencies.

(b) If a controlled insurance program includes general liability coverage for the participants, then:

(1) Coverage for completed operations liability shall not, after substantial completion of a construction project, be canceled, lapse or expire before the limitation on actions has expired as established by subsection (b) of K.S.A. 60-513, and amendments thereto, but in

no case greater than 10 years, and if another carrier takes responsibility for completed operations liability coverage, any and all prior completed operation liability carriers will be released from completed operations liability unless specified otherwise in subsequent policies;

(2) general liability coverage shall not be required of project participants except for liabilities not arising on the site or sites of the construction project. Any coverage maintained by the participants shall cover liabilities not arising on the site or sites of the construction project;

(3) the general liability coverage provided to participants shall provide for severability of interest, except with respect to limits of liability, so that participants shall be treated as if separately covered under the policy;

(4) participants shall be given the same shared limits of liability coverage as applies to the sponsoring participant under the controlled insurance program; and

(5) participants shall not be required to waive rights of recovery for claims covered by the controlled insurance program against another participant in the controlled insurance program covered by general liability insurance provided by the controlled insurance program.

(c) If a controlled insurance program includes coverage for the workers compensation liabilities of the participants, then:

(1) Workers compensation coverage shall include all workers compensation for which payroll attributable to the contractual agreement has been reported and the premiums collected covering all services performed incidental to, arising out of or emanating from the construction site or sites and the coming or going to or from the site or sites; and

(2) participants shall not be required to provide employment to a worker who has been injured on the job unless:

(A) The worker's treating health care provider certifies that the worker is fit to perform the participant's work on the job site consistent with the treating physician's limitations; and(B) the employer has the pre-injury job or modified work available.

Nothing in this subsection or any rules and regulations adopted pursuant to the controlled insurance program act shall affect any rights, remedies or duties under the workers compensation act or any other state or federal employment law.

New Sec. 4. In addition to such other rules and regulations adopted pursuant to this act, the commissioner is hereby authorized to adopt such rules and regulations relating to controlled insurance programs as may be necessary to carry out the provisions of the controlled insurance programs act.

New Sec. 5. The commissioner shall adopt all rules and regulations required by this act by January 1, 2010.

Sec. 6. K.S.A. 16-1803 is hereby amended to read as follows: 16-1803. (a) Subject to the provisions of subsections (b), (c), (d), (e), (f), (g) and (h) and K.S.A. 16-1804 and 16-1805, and amendments thereto, all persons who enter into a contract for private construction after the effective date of this act, shall make all payments pursuant to the terms of the contract.

(b) The following provisions in a contract for private construction shall be against public policy and shall be void and unenforceable:

(1) A provision that purports to waive, release or extinguish the right to resolve disputes through litigation in court or substantive or procedural rights in connection with such litigation except that a contract may require binding arbitration as a substitute for litigation or require non-binding alternative dispute resolution as a prerequisite to litigation;

(2) a provision that purports to waive, release or extinguish rights provided by article 11 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, except that a contract may require a contractor or subcontractor to provide a waiver or release of such rights as a condition for payment, but only to the extent of the amount of payment received; and

(3) a provision that purports to waive, release or extinguish rights of subrogation for losses or claims covered or paid by liability or workers compensation insurance except that a contract may require waiver of subrogation for losses or claims paid by a consolidated or wrap-up insurance program, owners and contractors protective liability insurance, or project

management protective liability insurance, unless otherwise prohibited under subsection (b)(5) of section 3, and amendments thereto.

(c) Any provision in a contract for private construction providing that a payment from a contractor or subcontractor to a subcontractor is contingent or conditioned upon receipt of a payment from any other private party, including a private owner, is no defense to a claim to enforce a mechanic's lien or bond to secure payment of claims pursuant to the provisions of article 11 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

(d) All contracts for private construction shall provide that payment of amounts due a contractor from an owner, except retainage, shall be made within 30 days after the owner receives a timely, properly completed, undisputed request for payment.

(e) If the owner fails to pay a contractor within 30 days following receipt of a timely, properly completed, undisputed request for payment, the owner shall pay interest to the contractor beginning on the thirty-first day after receipt of the request for payment, computed at the rate of 18% per annum on the undisputed amount.

(f) A contractor shall pay its subcontractors any amounts due within seven business days of receipt of payment from the owner, including payment of retainage, if retainage is released by the owner, if the subcontractor has provided a timely, properly completed and undisputed request for payment to the contractor.

(g) If the contractor fails to pay a subcontractor within seven business days, the contractor shall pay interest to the subcontractor beginning on the eighth business day after receipt of payment by the contractor, computed at the rate of 18% per annum on the undisputed amount.

(h) The provisions of subsections (f) and (g) shall apply to all payments from subcontractors to their subcontractors.

Sec. 7. K.S.A. 2008 Supp. 40-2,105 is hereby amended to read as follows: 40-2,105. (a) On or after the effective date of this act, every insurer which issues any individual *policy of* accident and sickness insurance or group policy of accident and sickness insurance providing to a small employer as defined in K.S.A. 40-2209d, and amendments thereto, which provides medical, surgical or hospital expense coverage for other than specific diseases or accidents only and which provides for reimbursement or indemnity for services rendered to a person covered by such policy in a medical care facility, must provide for reimbursement or indemnity under such individual policy or under such *small employer* group policy, except as provided in subsection (d), which shall be limited to not less than 30 45 days per year when such person is confined for treatment of alcoholism, drug abuse or nervous or mental conditions for in-patient treatment of mental illness in a medical care facility licensed under the provisions of K.S.A. 65-429, and amendments thereto, and not less than 30 days per year when such person is confined for treatment of alcoholism, drug abuse or substance use disorders in a treatment facility for alcoholics licensed under the provisions of K.S.A. 65-4014, and amendments thereto, a treatment facility for drug abusers licensed under the provisions of K.S.A. 65-4605, and amendments thereto, a community mental health center or clinic licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, or a psychiatric hospital licensed under the provisions of K.S.A. 75-3307b, and amendments thereto. Such individual policy or such small employer group policy shall also provide for reimbursement or indemnity, except as provided in subsection (d), of the costs of treatment of such person for *mental illness*, alcoholism, drug abuse and nervous or mental conditions substance use disorders subject to the same deductibles, copayments, coinsurance, out-ofpocket expenses and treatment limitations as apply to other covered services, limited to not less than 100% of the first \$100, 80% of the next \$100 and 50% of the next \$1.640 in any year and limited to not less than \$7,500 \$15,000 in such person's lifetime, with no annual *limits*, in the facilities enumerated when confinement *in-patient treatment* is not necessary for the treatment or by a physician licensed or psychologist licensed to practice under the laws of the state of Kansas.

(b) For the purposes of this section <u>"nervous or mental conditions</u>" *"mental illness, alcoholism, drug abuse or substance use*" means disorders specified in the diagnostic and statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of the American psychiatric association but shall not include conditions.

(1) Not attributable to a mental disorder that are a focus of attention or treatment (DSM-IV, 1994); and

(2) defined as a mental illness in K.S.A. 2008 Supp. 40-2,105a and amendments thereto.

(c) The provisions of this section shall be applicable to health maintenance organizations organized under article 32 of chapter 40 of the Kansas Statutes Annotated.

(d) There shall be no coverage under the provisions of this section for any assessment against any person required by a diversion agreement or by order of a court to attend an alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, or for evaluations and diagnostic tests ordered or requested in connection with criminal actions, divorce, child custody or child visitation proceedings.

(e) The provisions of this section shall not apply to any medicare supplement policy of insurance, as defined by the commissioner of insurance by rule and regulation.

(f) The provisions of this section shall be applicable to the Kansas state employees health care benefits program developed and provided by the Kansas state employees health care commission.

(g) The outpatient coverage provisions of this section shall not apply to a high deductible health plan as defined in federal law if such plan is purchased in connection with a medical or health savings account pursuant to that federal law, regardless of the effective date of the insurance policy. After the amount of eligible deductible expenses have been paid by the insured, the outpatient costs of treatment of the insured for alcoholism, drug abuse and nervous or mental conditions shall be paid on the same level they are provided for a medical condition, subject to the yearly and lifetime maximums provided in subsection (a).

(f) Treatment limitations include limits on the frequency of treatment, number of visits, days of coverage or other similar limits on the scope or duration of treatment.

(g) Utilization review for mental illness shall be consistent with provisions in K.S.A. 40-22a01 through 40-22a12, and amendments thereto.

Sec. 8. K.S.A. 2008 Supp. 40-2,105a is hereby amended to read as follows: 40-2,105a. (a) (1) Any group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides medical, surgical or hospital expense coverage for mental health benefits and which is delivered, issued for delivery, amended or renewed on or after January 1, 2002, shall include, coverage for diagnosis and treatment of mental illnesses. Except as provided in paragraph (2), and alcoholism, drug abuse or other substance use disorders. Reimbursement or indemnity shall be provided for treatment in a medical care facility licensed under the provisions of K.S.A. 65-429, and amendments thereto, treatment facilities licensed under K.S.A. 65-4605, and amendments thereto, a community mental health center or clinic licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, a psychiatric hospital licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, or by a physician or psychologist licensed to practice under the laws of the state of Kansas. Such coverage shall be subject to the same deductibles, copayments, coinsurance, out-of-pocket expenses, treatment limitations and other limitations as apply to other covered services.

(2) The coverage required by paragraph (1) shall include annual coverage for both 45 days of in-patient care for mental illness and for 45 visits for out-patient care for mental illness shall include treatment for in-patient care and out-patient care for mental illness, alcoholism, drug abuse or substance use disorders.

(b) Notwithstanding the provisions of K.S.A. 40-2249a, and amendments thereto, the state insurance department shall deliver to the president of the senate and to the speaker of the house of representatives on or before January 1, 2003, a report indicating the impact of providing mental illness benefits required by this act. Such report shall include information regarding access to and usage of such services and the cost of such services.

(c)—For the purposes of this section, "mental illness, *alcoholism, drug abuse or substance use*" means the following. Schizophrenia, schizoaffective disorder, schizophreniform disorder, brief reactive psychosis, paranoid or delusional disorder, atypical psychosis, major affective disorders (bipolar and major depression), cyclothymic and dysthymic disorders, observe compulsive disorder, panic disorder, pervasive developmental disorder, including autism, attention deficit disorder and attention deficit hyperactive any disorder as such terms

are defined in the diagnostic and statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of the American psychiatric association but shall not include conditions not attributable to a mental disorder that are a focus of attention or treatment.

 $\frac{d}{c}$ (c) The provisions of this section shall be applicable to health maintenance organizations organized under article 32 of chapter 40 of the Kansas Statutes Annotated.

(e) (d) The provisions of this section shall not apply to any *small employer group policy*, as defined under K.S.A. 40-2209, and amendments thereto, providing medical, surgical or hospital expense coverage or to any medicare supplement policy of insurance, as defined by the commissioner of insurance by rule and regulation.

(f) (e) The provisions of this section shall be applicable to the Kansas state employees health care benefits program and municipal funded pools.

(g) (f) The provisions of this section shall not apply to any policy or certificate which provides coverage for any specified disease, specified accident or accident only coverage, credit, dental, disability income, hospital indemnity, long-term care insurance as defined by K.S.A. 40-2227, and amendments thereto, vision care or any other limited supplemental benefit nor to any medicare supplement policy of insurance as defined by the commissioner of insurance by rule and regulation, any coverage issued as a supplement to liability insurance, workers compensation or similar insurance, automobile medical-payment insurance or any insurance under which benefits are payable with or without regard to fault, whether written on a group, blanket or individual basis.

(h) From and after January 1, 2002, the provisions of K.S.A. 40-2,105, and amendments thereto, shall not apply to mental illnesses as defined in this act.

(i) There shall be no coverage under this section for evaluations and diagnostic tests ordered or requested in connection with criminal actions, divorce, child custody or child visitation proceedings.

(g) Treatment limitations include limits on the frequency of treatment, number of visits, days of coverage or other similar limits on the scope or duration of treatment.

(h) There shall be no coverage under the provisions of this section for any assessment against any person required by a diversion agreement or by order of a court to attend an alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, or for evaluations and diagnostic tests ordered or requested in connection with criminal actions, divorce, child custody or child visitation proceedings.

(i) Utilization review for mental illness shall be consistent with provisions in K.S.A. 40-22a01 through 40-22a12, and amendments thereto.

Sec. 9. On and after November 1, 2009, K.S.A. 2008 Supp. 40-2258 is hereby amended to read as follows: 40-2258. (a) An accident and sickness insurer which offers coverage through a group policy *or certificate of coverage* providing hospital, medical or surgical expense benefits pursuant to K.S.A. 40-2209, and amendments thereto, which includes mental health *illness or alcoholism, drug abuse or other substance use disorder* benefits shall be subject to the following requirements:

(1) If the policy does not include an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits, the policy may not impose any aggregate lifetime limit on mental health illness or alcoholism, drug abuse or other substance use disorder benefits;

(2) if the policy includes an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits the plan shall either: (A) Apply the applicable lifetime limit both to the hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health illness or alcoholism, drug abuse or other substance use disorder benefits and not distinguished in the application of such limit between such hospital, medical and surgical expense benefits, or (B) not include any aggregate lifetime limit on mental health illness or alcoholism, drug abuse or other substance use disorder benefits; or (B) not include any aggregate lifetime limit on mental health illness or alcoholism, drug abuse or other substance use benefits that is less than the applicable lifetime limit on hospital, medical and surgical expense benefits;

(3) if the policy does not include an annual limit on substantially all hospital, medical and surgical expense benefits, the plan or coverage may not impose any annual limit on mental health illness or alcoholism, drug abuse or other substance use disorder benefits; and

(4) if the policy includes an annual limit on substantially all hospital, medical and surgical expense benefits the policy shall either: (A) Apply the applicable annual limit both to hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health illness or alcoholism, drug abuse or other substance use disorder benefits and mental health illness or alcoholism, drug abuse or other substance use disorder benefits; or (B) not include any annual limit on mental health illness or alcoholism, drug abuse or other substance use disorder benefits; or (B) not include any annual limit on mental health illness or alcoholism, drug abuse or other substance use disorder benefits that is less than the applicable annual limit.

(b) If the group policy providing hospital, medical or surgical expense benefits is not otherwise covered by subsection (a) and either does not apply a lifetime or annual benefit or applies different lifetime or annual benefits to different categories of hospital, medical and surgical expense benefits, the commissioner may adopt rules and regulations under which subsections (a)(2) and (a)(4) are applied to such policies with respect to mental health illness or alcoholism, drug abuse or other substance use disorder benefits by substituting for the applicable lifetime or annual limits an average limit that is computed taking into account the weighted average of the lifetime or annual limits applicable to such categories.

(c) Nothing in this section shall be construed as either:

(1) Requiring an accident and sickness policy to offer mental health *illness or alcoholism*, *drug abuse or other substance use disorder* benefits except as otherwise required by K.S.A. 40-2,105 *a*, and amendments thereto; or

(2) affecting any terms and conditions of a policy which does include mental health *illness or alcoholism, drug abuse or other substance use disorder* benefits including provisions regarding cost sharing, limits on the number of visits or days of coverage, requirements relating to medical necessity, requirements relating to the amount, duration or scope of mental health *illness or alcoholism, drug abuse or other substance use disorder* benefits under the plan or coverage, except as specifically provided in subsection (a).

(d) This section shall not apply to any group accident and health insurance policy which is sold to a small employer as defined in K.S.A. 40-2209, and amendments thereto.

(e) This section shall not apply with respect to a group policy providing hospital, medical or surgical expense benefits if the application of this section will result in an increase in the cost under the plan of at least $\frac{1\%}{2\%}$ in the case of the first plan year in which this section is applied and 1% in the case of each subsequent plan year. Determinations as to increases in actual costs under a plan shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American academy of actuaries. All such determinations shall be in a written report prepared by the actuary.

(f) In the case of a group policy providing hospital, medical or surgical expense benefits that offers an eligible employee, member or dependent two or more benefit package options under the policy, subsections (a) and (b) shall be applied separately with respect to each such option.

(g) As used in this section:

(1) "Aggregate lifetime limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount that may be paid with respect to such benefits under the policy with respect to an eligible employee, member or dependent;

(2) "annual limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the policy with respect to an eligible employee, member or dependent;

(3) "hospital, medical or surgical expense benefits" means benefits with respect to hospital, medical or surgical services, as defined under the terms of the policy, but does not include mental health benefits;

(4) "mental health *illness* benefits" means benefits with respect to mental health services, as defined under the terms of the policy, but does not include benefits with respect to treatment of substance abuse or chemical dependency;

(5) "alcoholism, drug abuse or substance use disorder benefits" means benefits with respect to services for the treatment of alcoholism, drug abuse or other substance use disorders, as defined under the terms of the policy:

(6) "mental illness, alcoholism, drug abuse or substance use" means disorders specified in the diagnostic and statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of the American psychiatric association.

(h) This section shall be effective for group policies providing hospital, medical or surgical expense benefits which are entered into or renewed after January 1, 1998. This section shall not apply to benefits for services furnished on or after December 31, 2008.

(i) The commissioner is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this section.";

And by renumbering sections accordingly;

On page 36, in line 39, by striking "insurance carrier" and inserting "employer";

On page 42, in line 41, by striking "insurance carrier" and inserting "employer"; On page 45, by striking all in lines 22 through 24 and inserting the following:

"Sec. 12. K.S.A. 16-1803 and K.S.A. 2008 Supp. 40-2,105, 40-2,105a, 40-2209 and 40-3209 are hereby repealed.";

On page 1, in the title, by striking all in lines 12 through 16 and inserting the following:

"AN ACT relating to insurance; concerning the regulation thereof; amending K.S.A. 16-1803 and K.S.A. 2008 Supp. 40-2,105, 40-2,105a, 40-2209, 40-2258 and 40-3209 and repealing the existing sections.";

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

RUTH TEICHMAN KARIN BROWNLEE CHBIS STEINEGER Conferees on part of Senate

CLARK SHULTZ DALE SWENSON Conferees on part of House

Senator Teichman moved the Senate adopt the Conference Committee Report on HB 2214.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Bruce, Haley.

The Conference Committee report was adopted.

REPORT ON ENGROSSED BILLS

SB 171 reported correctly engrossed May 8, 2009.

COMMITTEE OF THE WHOLE

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

On motion of Senator V. Schmidt the following report was adopted:

Recommended: SCR 1616 be adopted.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a 3/3 constitutional majority, and SCR 1616 was advanced to Final Action and roll call.

SCR 1616, A concurrent resolution urging Kansas school districts to use carefully the federal stimulus funds received under the Federal American Recovery and Reinvestment Act of 2009 and to use other available funds to establish or to increase the balances in contingency reserve funds of districts.

On roll call, the vote was: Yeas 35, Nays 2, Present and Passing 1, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Kultala, Lee. Present and Passing: Kelly. Absent or Not Voting: Bruce, Haley. The resolution was adopted.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

ORIGINAL MOTION

On emergency motion of Senator D. Schmidt, **SCR 1618** was advanced on the Calendar under the heading of General Orders to the first order of business.

COMMITTEE OF THE WHOLE

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

On motion of Senator V. Schmidt the following report was adopted:

Recommended: **SCR 1618** be adopted.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ²/₃ constitutional majority, and **SCR 1618** was advanced to Final Action and roll call.

SCR 1618, A concurrent resolution urging the legislature to formulate and implement a comprehensive transportation plan by the 2010 legislative session.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Bruce, Haley, Masterson.

The resolution was adopted.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Schodorf, Abrams, Hensley, Huelskamp, Marshall, Owens, Steineger, Teichman, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1896-

A RESOLUTION honoring University of Kansas Chancellor Robert E. Hemenway.

WHEREAS, Chancellor Robert E. Hemenway, who since 1995 has led the University of Kansas through an unprecedented period of progress and expansion, will step down as Chancellor on June 30, 2009; and

WHEREAS, Under Chancellor Hemenway's leadership, KU has experienced record enrollment; the transition of KU Hospital to a top performing academic hospital after Hemenway's proposal in 1998 to move the hospital from state status to a public authority; an increase in its research activity to almost \$300 million annually and undergone an unprecedented expansion and remodeling of its campus facilities; and

WHEREAS, Chancellor Hemenway has also initiated a "wounded warrior" education partnership with the U.S. Army in Fort Leavenworth, building on a faculty-student exchange he created with the fort; and

WHEREAS, In 2007, Chancellor Hemenway was elected to the 11-member executive committee for the Association of American Universities, an organization representing the nation's most prestigious research universities, and in 2008, he was elected its vice-chair; and

WHEREAS, As the No. 1 Jayhawk fan, Chancellor Hemenway was especially pleased to see the University of Kansas Jayhawks win the NCAA men's basketball championship and a BCS Bowl game, the Orange Bowl, in 2008, joining the University of Florida as the only schools to have achieved that feat; and

WHEREAS, As a scholar of American literature, Chancellor Hemenway has taught an undergraduate class every year, recently alternating between American literature and honors seminars on global poverty and development issues, topics reflective of Hemenway's wideranging intellectual interests; and

WHEREAS, The innumerable and invaluable contributions made by Dr. Hemenway have not only guided the University of Kansas through an extremely successful period in its history, but have left the future of the university in wonderful condition to continue the tradition of success: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor and thank Dr. Robert Hemenway for his contributions to the University of Kansas and its students, faculty, administration, alumni, parents, supporters and to the entire state of Kansas; and

Be it further resolved: That the Secretary of the Senate be directed to provide two enrolled copies of this resolution to Senator Jean Schodorf.

On emergency motion of Senator Schodorf SR 1896 was adopted unanimously.

Senators paid tribute to Dr. Hemenway, thanking him not only for his contributions to those associated with the University of Kansas, but to the entire state of Kansas.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

EVENING SESSION

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

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on HB 2060.

The House adopts the conference committee report on SB 33.

The House announces the appointment of Representatives Neufeld, Kiegerl and Loganbill to replace Representatives C. Holmes, Knox and Kuether as conferees on **HB 2115**.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **SB 33**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 33**, 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 3, preceding line 17, by inserting the following:

"New Section 1. As used in the statewide electronic logging system for sale of methamphetamine precursor act, unless the context otherwise requires:

(a) "Board" means the state board of pharmacy.

(b) "Methamphetamine precursor" means any compound, mixture or preparation containing pseudoephedrine, ephedrine or phenylpropanolamine, or any of their salts or optical isomers, or salts of optical isomers, but does not include products that have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts for precursors, and does not include animal feed products containing ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.

(c) "Pharmacy" means premises, laboratory, area or other place, including in-state and out-of-state facilities that are required to be registered under K.S.A. 65-1643 or 65-1657, and amendments thereto: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these words or combinations of these words or similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" may be exhibited.

New Sec. 2. (a) The board shall establish and maintain a program for a statewide electronic logging system for sale of methamphetamine precursors.

(b) Each pharmacy shall maintain an electronic methamphetamine precursor recording log documenting the sale of methamphetamine precursors. The board shall promulgate rules and regulations specifying a standardized format for the log and the information that each pharmacy shall submit to the board, which shall include, but not be limited to:

(1) The name and address of the person purchasing, receiving or otherwise acquiring the methamphetamine precursor;

(2) the name of the product and quantity purchased;

(3) the date and time of the purchase; and

(4) the name, or initials, of the licensed pharmacist, registered pharmacy technician or pharmacy intern or clerk supervised by a licensed pharmacist who sold the product.

(c) Notwithstanding the requirements of this section, each pharmacy shall maintain the purchaser's signature in accordance with subsection (k) of K.S.A. 65-1643, and amendments thereto.

(d) Each pharmacy that is capable shall submit the information from the log in real time in accordance with transmission methods specified in rules and regulations promulgated by the board.

(e) The board may grant a waiver exempting a pharmacy from compliance with the requirements of this section upon showing of good cause by the pharmacy that it is otherwise unable to submit log information by electronic means for various reasons, including, but not limited to, mechanical or electronic failure or financial, technological or any other undue burden on the pharmacy, established by rules and regulations. Such waiver may permit the pharmacy to submit log information by paper form or other means, provided that all information required by rules and regulations is submitted in this alternative format.

(f) No pharmacy or pharmacy employee shall be liable to any person in a civil action for damages or other relief arising from a sale of a methamphetamine precursor that occurs at another pharmacy.

(g) The requirements of this section shall not apply where there is a lawful prescription present for the methamphetamine precursor sold.

New Sec. 3. (a) The cost of establishing and maintaining the statewide electronic logging system shall be borne by the state, other non-state units of government, private entities, or others. Pharmacies shall not be required to bear the costs associated with establishing and maintaining the electronic logging system, through any additional charges, whether statewide, regional, county-wide or otherwise as provided in this section.

(b) In the event that funding for a statewide program is not available, the board may implement the program on a non-statewide basis, whether such program is funded regionally or county-wide or otherwise. The board shall, by rules and regulations, prescribe that such

regional or non-statewide program comply with requirements applicable to a statewide program, including that such non-state governmental units or regional programs may not utilize different vendors. Any requirements of this act shall only be applicable to pharmacies within such units of government or regions, if a regional program is established, and all other pharmacies in the state shall be exempt from requirements for the electronic logging system required pursuant to this act.

(c) If the state, other non-state units of government, private entities or others are unable to bear the costs of establishing and maintaining the electronic logging system, pharmacies within the state, or in the case of regional or other non-statewide programs, pharmacies within those program areas shall be relieved of any obligation to comply with the statewide electronic logging system program pursuant to this act. Such pharmacies shall still be subject to the requirements of maintaining a log as provided in subsection (k) of K.S.A. 65-1643, and amendments thereto.

(d) The board shall not impose any additional charges for the establishment or maintenance of the program for the recording of methamphetamine precursors on a pharmacy. The board shall not charge any fees for the transmission of data to the program database or for the receipt of information from the database.

(e) The state board of pharmacy may receive and expend, or supervise the expenditure of, any donation, gift, grant or bequest made to the board for furthering any phase of the statewide electronic logging system program.

New Sec. 4. (a) Methamphetamine precursor recording log information submitted to the board shall be confidential and not a public record and not subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except as provided in subsections (c) and (d).

(b) The board shall maintain procedures to ensure that the privacy and confidentiality of information collected, recorded, transmitted and maintained is not disclosed to persons except as provided in subsections (c) and (d).

(c) The board shall be authorized to provide data in the log to the following persons:

(1) Any person authorized to prescribe or dispense products containing pseudoephedrine, ephedrine or phenylpropanolamine, for the purpose of complying with the provisions of this act; and

(2) local, state and federal law enforcement or prosecutorial officials.

(d) The board may provide data to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual patients or persons who received methamphetamine precursors from pharmacies.

New Sec. 5. (a) The board is hereby authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective implementation and operation of the methamphetamine precursor recording log. The state agency or private vendor selected shall have the technological capability to receive electronic log data from pharmacies submitted pursuant to section 2, and amendments thereto, and to send real time notification to law enforcement officials. Regardless of the entity selected to manage the program, pharmacies are not required to use any one particular vendor's product to comply with the requirements under section 2, and amendments thereto. Any electronic system implemented by the state shall be capable of bridging with existing and future operational systems used by pharmacies at no cost to such pharmacies. Any contractor shall be bound to comply with the provisions regarding confidentiality of log information in this section, and amendments thereto, and shall be subject to the penalties specified in section 7, and amendments thereto, for unlawful acts.

(b) All information collected for the program database and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be retained for five years. Such information and records shall then be destroyed unless a law enforcement entity has submitted a written request to the board for retention of specific information or records in accordance with procedures adopted by the board.

(c) The board shall develop and implement a program to educate pharmacies and pharmacy employees about the program for the recording of methamphetamine precursors.

(d) The board shall review the effectiveness of the program for the recording of methamphetamine precursors and submit an annual report to the senate standing committee on public health and welfare and the house standing committee on health and human services.

New Sec. 6. The board shall adopt, within six months after the effective date of this act, such rules and regulations the board deems necessary to carry out the provisions of this act.

New Sec. 7. (a) A pharmacy that knowingly fails to submit methamphetamine precursor recording log information to the board as required by this act or knowingly submits incorrect log information shall be guilty of a severity level 10, nonperson felony.

(b) A person authorized to have log information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a severity level 10, non-person felony.

(c) A person authorized to have log information pursuant to this act who knowingly uses such information in a manner or for a propose in violation of this act shall be guilty of a severity level 10, nonperson felony.

New Sec. 8. Sections 1 through 8, and amendments thereto, shall be known and may be cited as the statewide electronic logging system for sale of methamphetamine precursor act.

Sec. 9. K.S.A. 2008 Supp. 65-1643 is hereby amended to read as follows: 65-1643. It shall be unlawful:

(a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the pharmacist in charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; (3) that the pharmacy will be under the supervision of a pharmacist, a registration shall be issued to such persons as the board shall deem qualified to conduct such a pharmacy.

(b) For any person to manufacture within this state any drugs except under the personal and immediate supervision of a pharmacist or such other person or persons as may be approved by the board after an investigation and a determination by the board that such person or persons is qualified by scientific or technical training or experience to perform such duties of supervision as may be necessary to protect the public health and safety; and no person shall manufacture any such drugs without first obtaining a registration so to do from the board. Such registration shall be subject to such rules and regulations with respect to requirements, sanitation and equipment, as the board may from time to time adopt for the protection of public health and safety.

(c) For any person to distribute at wholesale any drugs without first obtaining a registration so to do from the board.

(d) For any person to sell or offer for sale at public auction or private sale in a place where public auctions are conducted, any drugs without first having obtained a registration from the board so to do, and it shall be necessary to obtain the permission of the board in every instance where any of the products covered by this section are to be sold or offered for sale.

(e) For any person to in any manner distribute or dispense samples of any drugs without first having obtained a permit from the board so to do, and it shall be necessary to obtain permission from the board in every instance where the samples are to be distributed or dispensed. Nothing in this subsection shall be held to regulate or in any manner interfere with the furnishing of samples of drugs to duly licensed practitioners, to mid-level practitioners, to pharmacists or to medical care facilities.

(f) Except as otherwise provided in this subsection (f), for any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board authorizing such person so to do. No retail dealer who sells 12 or fewer different nonprescription drug products shall be required to obtain a retail dealer's permit under the pharmacy act of the state of Kansas or to pay a retail dealer new permit or permit renewal fee under such act. It shall be lawful for a retail dealer who sells 12 or fewer different nonprescription drug products to sell and distribute nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug product intended for human use by hypodermic injection; but such a retail dealer shall not be authorized to display any of the words listed in subsection ($\frac{10}{40}$) of K.S.A. 65-1626 and amendments thereto, for the designation of a pharmacy or drugstore.

(g) For any person to sell any drugs manufactured and sold only in the state of Kansas, unless the label and directions on such drugs shall first have been approved by the board.

(h) For any person to operate an institutional drug room without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1637a and amendments thereto and any rules and regulations adopted pursuant thereto.

(i) For any person to be a pharmacy student without first obtaining a registration to do so from the board, in accordance with rules and regulations adopted by the board, and paying a pharmacy student registration fee of \$25 to the board.

(j) For any person to operate a veterinary medical teaching hospital pharmacy without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1662 and amendments thereto and any rules and regulations adopted pursuant thereto.

 (\hat{k}) For any person to sell or distribute in a pharmacy a controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto, unless:

(1) (A) Such controlled substance is sold or distributed by a licensed pharmacist, a registered pharmacy technician or a pharmacy intern or clerk supervised by a licensed pharmacist;

(B) any person purchasing, receiving or otherwise acquiring any such controlled substance produces a photo identification showing the date of birth of the person and signs a log and enters in the log, or allows the seller to enter in the log, such person's address and the date and time of sale *or allows the seller to enter such information into an electronic logging system pursuant to section 2.* The log or database required by the board shall be available for inspection during regular business hours to the board of pharmacy and any law enforcement officer;

 $(C)\;$ the seller determines that the name entered in the log corresponds to the name provided on such identification and that the date and time entered are correct; and

 $\left(D\right) \;$ the seller enters in the log the name of the controlled substance and the quantity sold; or

(2) there is a lawful prescription.

(1) For any pharmacy to allow customers to have direct access to any controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto. Such controlled substance shall be placed behind the counter or stored in a locked cabinet that is located in an area of the pharmacy to which customers do not have direct access.

(m) A seller who in good faith releases information in a log pursuant to subsection (k) to any law enforcement officer is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton or willful misconduct.

(n) For any person to sell or lease or offer for sale or lease durable medical equipment without first obtaining a registration from the board, in accordance with rules and regulations adopted by the board, except that this subsection shall not apply to:

(1) Sales not made in the regular course of the person's business; or

(2) sales by charitable organizations exempt from federal income taxation pursuant to the internal revenue code of 1986, as amended.

New Sec. 10. (a) As part of an original application for or reinstatement of any license, registration, permit or certificate or in connection with any investigation of any holder of a license, registration, permit or certificate, the state board of pharmacy may require a person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The state board of pharmacy is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The state board of pharmacy may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, registration, permit or certificate.

(b) Local and state law enforcement officers and agencies shall assist the state board of pharmacy in taking and processing of fingerprints of applicants for and holders of any license, registration, permit or certificate and shall release all records of adult convictions and non-convictions and adult convictions or adjudications of another state or country to the state board of pharmacy.

(c) The state board of pharmacy may fix and collect a fee as may be required by the board in an amount equal to the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the pharmacy fee fund. The board of pharmacy shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the pharmacy fee fund.

(d) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.";

And by renumbering the remaining sections accordingly;

On page 5, in line 28, following "Supp." by inserting "65-1643, 65-1643b and";

In the title, in line 21, preceding "amending" by inserting "fingerprinting and criminal history record checks; creating a statewide electronic logging system for the sale of methamphetamine precursors;"; in line 22, preceding "65-1663" by inserting "65-1643 and"; in line 23, preceding the period by inserting "; also repealing K.S.A. 2008 Supp. 65-1643b";

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

PAT COLLOTON JOE PATTON MELODY MCCRAY-MILLER Conferees on part of House

JIM BARNETT VICKI SCHMIDT DAVID HALEY Conferees on part of Senate

Senator Barnett moved the Senate adopt the Conference Committee Report on **SB 33**. On roll call, the vote was: Yeas 33, Nays 4, Present and Passing 0, Absent or Not Voting 3.

Yeas: Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Navs: Abrams, Huelskamp, Pilcher-Cook, Pyle.

Absent or Not Voting: Bruce, Haley, Lynn.

The Conference Committee report was adopted.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Francisco as a member of the Conference Committee on **S Sub for HB 2115** to replace Senator Lee.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

MESSAGE FROM THE HOUSE

Announcing passage of SB 336, as amended.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **SB 41**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Emler moved the Senate concur in house amendments to SB 336.

SB 336, An act reconciling amendments to certain statutes and making certain technical changes related thereto; amending K.S.A. 16a-6-117, as amended by section 23 of 2009 Senate Bill No. 240, 20-3201, 21-3826, as amended by section 1 of 2009 Senate Bill No. 237, and 72-4423, as amended by section 11 of 2009 House Bill No. 2003, and K.S.A. 2008 Supp. 8-126, as amended by section 4 of 2009 Senate Bill No. 275, 8-1567, as amended by section 5 of 2009 Senate Substitute for House Bill No. 2096, 8-2110, as amended by section 1 of 2009 Senate Bill No. 158, 12-5242, 19-101a, 20-367, 22-3716, 25-4156, 25-4169a, 28-172a, as amended by section 15 of 2009 Senate Bill No. 66, 38-2211, 38-2255, as amended by section 6 of 2009 Senate Bill No. 134, 45-221, as amended by section 27 of 2009 House Bill No. 2052, 59-104, as amended by section 19 of 2009 Senate Bill No. 66, 60-1621, as amended by section 22 of 2009 Senate Bill No. 66, 60-2001, as amended by section 23 of 2009 Senate Bill No. 66, 60-4104, as amended by section 1 of 2009 Substitute for Senate Bill No. 28, 61-2704, as amended by section 25 of 2009 Senate Bill No. 66, 61-4001, as amended by section 26 of 2009 Senate Bill No. 66, 65-1643, 65-2878, 66-2005, 72-6448, 75-7c04, as amended by section 2 of 2009 House Bill No. 2308, 75-7427, 76-3110, 79-213, 79-5a27 and 79-32,117 and section 16 of 2009 House Bill No. 2236 and repealing the existing sections; also repealing K.S.A. 20-3201, as amended by section 1 of 2009 House Bill No. 2111, 21-3826, as amended by section 27 of 2009 House Bill No. 2236, 65-4142, as amended by section 1 of 2009 House Bill No. 2059, and 76-3110, as amended by section 36 of chapter 145 of the 2004 Session Laws of Kansas, and K.S.A. 2008 Supp. 8-126, as amended by section 4 of 2009 House Bill No. 2152, 8-1567, as amended by section 19 of 2009 House Bill No. 2236, 8-2110, as amended by section 3 of 2009 Senate Bill No. 66, 12-1773a, 12-5242a, 12-5242b, 19-101m, 20-367, as amended by section 2 of 2009 House Bill No. 2111, 22-3716a, 25-4156a, 25-4169b, 28-172a, as amended by section 3 of 2009 House Bill No. 2111, 38-2211a, 38-2255, as amended by section 47 of 2009 House Bill No. 2236, 39-756d, 45-221, as amended by section 2 of 2009 Senate Bill No. 87, 45-229b, 59-104, as amended by section 4 of 2009 House Bill No. 2111, 60-1621, as amended by section 5 of 2009 House Bill No. 2111, 60-2001, as amended by section 6 of 2009 House Bill No. 2111, 60-2102a, 60-2403a, 60-4104, as amended by section 51 of 2009 House Bill No. 2236, 61-2704, as

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amended by section 7 of 2009 House Bill No. 2111, 61-3003a, 61-4001, as amended by section 8 of 2009 House Bill No. 2111, 65-1643b, 65-2878b, 66-2005a, 72-6433c, 72-6448, as amended by section 1 of 2009 House Bill No. 2002, 75-7c04, as amended by section 60 of 2009 House Bill No. 2236, 75-7427a, 79-213e, 79-5a27a and 79-32,117m and section 1 of 2009 Senate Substitute for House Bill No. 2126.

On roll call, the vote was: Yeas 34, Nays 0, Present and Passing 0, Absent or Not Voting 6.

Yeas: Abrams, Apple, Barnett, Brungardt, Colyer, Donovan, Emler, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Brownlee, Bruce, Faust-Goudeau, Haley, Lynn, Steineger. The Senate concurred.

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **SB 41**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 41**, 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 amendments, as follows:

On page 4, after line 41, by inserting the following:

"Sec. 2. K.S.A. 2008 Supp. 72-7535 is hereby amended to read as follows: 72-7535. (a) In order to equip students with the knowledge and skills needed to become self-supporting and to enable students to make critical decisions regarding personal finances, the state board of education shall authorize and assist in the implementation of programs on teaching personal financial literacy. The components of personal financial literacy covered in the program shall include, but not be limited to, consumer financial education, personal finance and personal credit.

(b) The state board of education shall develop a curriculum, materials and guidelines that local boards of education and governing authorities of accredited nonpublic schools may use in implementing the program of instruction on personal financial literacy. *The state board of education shall adopt a glossary of personal financial literacy terms which shall be used by school districts when implementing the program on personal financial literacy.*

(c) The state board of education shall develop *state curriculum* standards and objectives for personal financial literacy, for all grade levels, within the existing mathematics curriculum or another appropriate subject-matter curriculum.

(d) The state board of education shall encourage school districts when selecting textbooks for mathematics, economics or similar, *family and consumer science, accounting or other appropriate* courses, to select those textbooks which contain substantive provisions on personal finance, including personal budgeting, credit, debt management and similar personal financial topics other topics concerning personal financial literacy.

(e) The state board of education shall include questions relating to personal financial literacy in the statewide assessments for mathematics or social studies required under K.S.A. 72-6439, and amendments thereto. When the statewide assessments for mathematics or social studies are reviewed or rewritten, the state board of education shall examine the questions relating to personal financial literacy and rewrite such questions in order to determine if programs on personal financial literacy are equipping students with the knowledge and skills needed to become self-supporting and enabling students to make critical decisions regarding personal finances.

New Sec. 3. (a) The state board of education shall designate a period of time each school year as a time for disability history and awareness.

(b) The state board of education shall develop objectives and guidelines for disability history and awareness, for all grade levels, within the existing curriculum for history, social studies or other appropriate subject-matter curriculum. The components of disability history and awareness may include, but not be limited to, the events and time lines relating to the development and evolution of services provided to individuals with disabilities, including the contributions of acknowledged national leaders.

(c) The goals of disability history and awareness instruction include:

(1) Encouraging the better treatment of individuals with disabilities, especially for school-age children.

(2) Increasing attention to the prevention of bullying or harassment of students with disabilities.

(3) Encouraging the development of self-esteem in individuals with disabilities.

(4) Encouraging individuals with disabilities to obtain a postsecondary education which will empower such individuals to enter the workforce and contribute to their communities.

(5) Reaffirming the local, state and federal commitment to providing an equal opportunity for, and the full inclusion in society of, all individuals with disabilities.

(d) Each school district shall include disability history and awareness within the district's curriculum as deemed appropriate by the district.

New Sec. 4. Each postsecondary educational institution is encouraged to conduct and promote on its campus activities which provide education, understanding and awareness of individuals with disabilities, disability history and awareness.";

And by renumbering sections accordingly;

Also on page 4, in line 43, after "72-6445a" by inserting "and 72-7535";

In the title, in line 13, by striking all before the semicolon where it appears for the last time and inserting "powers and duties thereof; relating to school finance"; in line 14, after "72-6445a" by inserting "and 72-7535"; in line 15, by striking "section" and inserting "sections";

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

CLAY AURAND DEENA HORST VALDENIA C. WINN Conferees on part of House

JEAN KURTIS SCHODORF JOHN VRATIL ANTHONY HENSLEY Conferees on part of Senate

Senator Schodorf moved the Senate adopt the Conference Committee Report on **SB 41**. On roll call, the vote was: Yeas 34, Nays 0, Present and Passing 0, Absent or Not Voting 6.

Yeas: Abrams, Apple, Barnett, Brungardt, Colyer, Donovan, Emler, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Brownlee, Bruce, Faust-Goudeau, Haley, Lynn, Steineger. The Conference Committee report was adopted.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on **HB 2158**. The House adopts the conference committee report on **HB 2162**.

The House concurs in Senate amendments to **Senate Substitute for Substitute HB 2365**, and requests return of the bill.

The House concurs in Senate amendments to HB 2374.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on HB 2214.

The House adopts the conference committee report on SB 84.

The House adopts the conference committee report on SB 168.

The House adopts the conference committee report on **Senate Substitute for HB 2072.**

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 84; H Sub for SB 168**.

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **SB 84; H Sub for SB 168**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 84**, 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 amendments, as follows:

On page 1, by striking all in lines 17 through 43;

On page 2, by striking all in lines 1 through 22; following line 22, by inserting:

"Section 1. K.S.A. 2008 Supp. 10-1116a is hereby amended to read as follows: 10-1116a. The limitations on expenditures imposed under the cash-basis law shall not apply to:

(a) Expenditures in excess of current revenues made for municipally owned and operated utilities out of the fund of such utilities caused by, or resulting from the meeting of, extraordinary emergencies including drought emergencies. In such cases expenditures in excess of current revenues may be made by declaring an extraordinary emergency by resolution adopted by the governing body and such resolution shall be published at least once in a newspaper of general circulation in such city. Thereupon, such governing body may issue interest bearing no-fund warrants on such utility fund in an amount, including outstanding previously issued no-fund warrants, not to exceed 25% of the revenues from sales of service of such utility for the preceding year. Such warrants shall be redeemed within three years from date of issuance and shall bear interest at a rate of not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto. Upon the declaration of a drought emergency, the governing body may issue such warrants for water system improvement purposes in an amount not to exceed 50% of the revenue received from the sale of water for the preceding year. Such warrants shall be redeemed within five years from the date of issuance and shall bear interest at a rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto.

(b) Expenditures in any month by school districts which are in excess of current revenues if the deficit or shortage in revenues is caused by, or a result of, the payment of state aid after the date prescribed for the payment of state aid during such month under K.S.A. 72-6417 or 72-6434, and amendments thereto.

The provisions of this subsection shall apply to expenditures made in school year 2001-2002, school year 2002-2003, school year 2003-2004, school year 2004-2005, school year 2005-2006 and school year 2006-2007. New Sec. 2. (a) (1) The provisions of this subsection shall apply in any school year in which the amount of base state aid per pupil is 4,433 or less.

(2) The board of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the base state aid per pupil was \$4,433 or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(b) (1) The provisions of this subsection shall apply in any school year in which the amount appropriated for state aid for special education and related services is less than the amount appropriated for state aid for special education and related services in school year 2008-2009.

(2) The board of education of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the district received state aid for special education and related services equal to the amount of state aid for special education and related services received in school year 2008-2009, or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(c) The board of education of any school district may exercise the authority granted under subsection (a) or (b) or both subsections (a) and (b).

 $\rm (d)~$ To the extent that the provisions of K.S.A. 72-6433, and amendments thereto, conflict with this section, this section shall control.

(e) The provisions of this section shall expire on June 30, 2012.

Sec. 3. \hat{K} .S.A. 2008 Supp. 72-6433 is hereby amended to read as follows: 72-6433. (a) As used in this section:

(1) "State prescribed percentage" means 31% of state financial aid of the district in the current school year.

(2) "Authorized to adopt a local option budget" means that a district has adopted a resolution under this section, has published the same, and either that the resolution was not protested or that it was protested and an election was held by which the adoption of a local option budget was approved.

(b) In each school year, the board of any district may adopt a local option budget which does not exceed the state prescribed percentage.

(c) Subject to the limitation of subsection (b), in each school year, the board of any district may adopt, by resolution, a local option budget in an amount not to exceed:

(1) (A) The amount which the board was authorized to adopt in accordance with the provisions of this section in effect prior to its amendment by this act; plus

(B) the amount which the board was authorized to adopt pursuant to any resolution currently in effect; plus

(C) the amount which the board was authorized to adopt pursuant to K.S.A. 72-6444, and amendments thereto, if applicable to the district; or

(2) the state-wide average for the preceding school year as determined by the state board pursuant to subsection (j).

Except as provided by subsection (e), the adoption of a resolution pursuant to this subsection shall require a majority vote of the members of the board. Such resolution shall be effective upon adoption and shall require no other procedure, authorization or approval.

(d) If the board of a district desires to increase its local option budget authority above the amount authorized under subsection (c) or if the board was not authorized to adopt a local option budget in 2006-2007, the board may adopt, by resolution, such budget in an amount not to exceed the state prescribed percentage. The adoption of a resolution pursuant to this subsection shall require a majority vote of the members of the board. The resolution shall be published at least once in a newspaper having general circulation in the district. The resolution shall be published in substantial compliance with the following form:

Unified School District No.

_____ County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to adopt a local option budget in each school year in an amount not to exceed _____% of the amount

of state financial aid. The local option budget authorized by this resolution may be adopted, unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether adoption of the local option budget shall be authorized to the electors of the school district at an election called for the purpose or at the next general election, as is specified by the board of education of the school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. _____, County, Kansas, on the day of ______.

Clerk of the board of education.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of unified School District No. _____ County, Kansas, on the _____ day of _____

Clerk of the board of education.

All of the blanks in the resolution shall be filled as is appropriate. If a sufficient petition is not filed, the board may adopt a local option budget. If a sufficient petition is filed, the board may notify the county election officer of the date of an election to be held to submit the question of whether adoption of a local option budget shall be authorized. Any such election shall be noticed, called and held in the manner provided by K.S.A. 10-120, and amendments thereto. If the board fails to notify the county election officer within 30 days after a sufficient petition is filed, the resolution shall be adopted by the board within the nine months following publication of the resolution.

(e) Any resolution authorizing the adoption of a local option budget in excess of 30% of the state financial aid of the district in the current school year shall not become effective unless such resolution has been submitted to and approved by a majority of the qualified electors of the school district voting at an election called and held thereon. The election shall be called and held in the manner provided by K.S.A. 10-120, and amendments thereto.

(f) Unless specifically stated otherwise in the resolution, the authority to adopt a local option budget shall be continuous and permanent. The board of any district which is authorized to adopt a local option budget may choose not to adopt such a budget or may adopt a budget in an amount less than the amount authorized. If the board of any district whose authority to adopt a local option budget is not continuous and permanent refrains from adopting a local option budget, the authority of such district to adopt a local option budget shall not be extended by such refrainment beyond the period specified in the resolution authorizing adoption of such budget.

(g) The board of any district may initiate procedures to renew or increase the authority to adopt a local option budget at any time during a school year after the tax levied pursuant to K.S.A. 72-6435, and amendments thereto, is certified to the county clerk under any existing authorization.

(h) The board of any district that is authorized to adopt a local option budget prior to the effective date of this act under a resolution which authorized the adoption of such budget in accordance with the provisions of this section in effect prior to its amendment by this act may continue to operate under such resolution for the period of time specified in the resolution or may abandon the resolution and operate under the provisions of this section as amended by this act. Any such district shall operate under the provisions of this section as amended by this act after the period of time specified in the resolution has expired.

(i) Any resolution adopted pursuant to this section may revoke or repeal any resolution previously adopted by the board. If the resolution does not revoke or repeal previously adopted resolutions, all resolutions which are in effect shall expire on the same date. The maximum amount of the local option budget of a school district under all resolutions in effect shall not exceed the state prescribed percentage in any school year.

(j) (1) There is hereby established in every district that adopts a local option budget a fund which shall be called the supplemental general fund. The fund shall consist of all amounts deposited therein or credited thereto according to law.

(2) Subject to the limitation imposed under paragraph (3) and subsection (e) of K.S.A. 72-6434, and amendments thereto, amounts in the supplemental general fund may be expended for any purpose for which expenditures from the general fund are authorized or may be transferred to any program weighted fund or categorical fund of the district. Amounts in the supplemental general fund attributable to any percentage over 25% of state financial aid determined for the current school year may be transferred to the capital improvements fund of the district and the capital outlay fund of the district if such transfers are specified in the resolution authorizing the adoption of a local option budget in excess of 25%.

(3) Amounts in the supplemental general fund may not be expended for the purpose of making payments under any lease-purchase agreement involving the acquisition of land or buildings which is entered into pursuant to the provisions of K.S.A. 72-8225, and amendments thereto.

(4) (A) Except as provided in paragraph (B), any unexpended budget remaining in the supplemental general fund of a district at the conclusion of any school year in which a local option budget is adopted shall be maintained in such fund.

(B) If the district received supplemental general state aid in the school year, the state board shall determine the ratio of the amount of supplemental general state aid received to the amount of the local option budget of the district for the school year and multiply the total amount of the unexpended budget remaining by such ratio. An amount equal to the amount of the product shall be transferred to the general fund of the district or remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

 $(k)\ \ \, Each$ year the state board of education shall determine the statewide average percentage of local option budgets legally adopted by school districts for the preceding school year.

(l) The provisions of this section shall be subject to the provisions of section 2, and amendments thereto.

Sec. 4. K.S.A. 2008 Supp. 10-1116a, 72-6433 and 72-6433c are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.";

In the title, by striking all in lines 12, 13 and 14; following line 14, by inserting:

"AN ACT concerning school districts; relating to school finance; amending K.S.A. 2008 Supp. 10-1116a and 72-6433 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 72-6433c.";

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

CLAY AURAND DEENA HORST VALDENIA WINN Conferees on part of House

JEAN KURTIS SCHODORF JOHN VRATIL ANTHONY HENSLEY Conferees on part of Senate

Senator Schodorf moved the Senate adopt the Conference Committee Report on **SB 84**. On roll call, the vote was: Yeas 35, Nays 0, Present and Passing 0, Absent or Not Voting 5.

Yeas: Abrams, Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson,

McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Bruce, Emler, Haley, Lynn, Steineger.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 168**, 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 as House Substitute for Senate Bill No. 168, as follows:

On page 1, in line 25, by striking "Among" and inserting "Except as otherwise provided by this section, among"; in line 36, after the period, by inserting: "The priority of payment prescribed by this section shall be subject to all applicable requirements, limitations or restrictions under federal or state law, including, but not limited to, the federal American recovery and reinvestment act of 2009, and shall be subject to all applicable requirements, limitations or restrictions prescribed by contracts and other agreements authorized by law, including, but not limited to, debt service payments pursuant to contractual bond obligations, as determined by the secretary of administration, after conferring with the director of the budget.";

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

JASON P. WATKINS KASHA KELLEY TOM BURROUGHS Conferees on part of House

JAY SCOTT EMLER JOHN VRATIL ANTHONY HENSLEY Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **H Sub for SB 168**.

On roll call, the vote was: Yeas 27, Nays 3, Present and Passing 5, Absent or Not Voting 5.

Yeas: Abrams, Barnett, Brownlee, Colyer, Donovan, Faust-Goudeau, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, Morris, Ostmeyer, Owens,

Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt V, Schodorf, Taddiken, Teichman, Wagle. Nays: Apple, Umbarger, Vratil.

Present and Passing: Brungardt, Francisco, McGinn, Schmidt D, Wysong.

Absent or Not Voting: Bruce, Emler, Haley, Lynn, Steineger.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: It is midnight on the last day of this legislative session. This is the first time the Senate has considered this proposal, which was created by the House of Representatives. Perhaps it is a good idea, but the truth is I am not sure I fully understand its ramifications. Consequently, I pass on this vote.—DEREK SCHMIDT

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **HB 2195**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2195**, submits the following report:

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

On page 15, after line 3, by inserting the following:

"Sec. 11. On and after July 1, 2009, K.S.A. 59-2971, as amended by section 10 of this act, is hereby amended to read as follows: 59-2971. (a) At any time after the petition provided for in K.S.A. 59-2957 and amendments thereto has been filed venue may be transferred in accordance with this section.

(1) Prior to trial required by K.S.A. 59-2965 and amendments thereto-, *and* before the expiration of two full working days following the probable cause hearing held pursuant to K.S.A. 59-2959 or 59-2962 and amendments thereto, the district court then with jurisdiction, on its own motion or upon the written request of any person, may transfer the venue of the case to the district court of the county where the patient is being detained, evaluated or treated in a treatment facility under the authority of an order issued pursuant to K.S.A. 59-2958, 59-2959 or 59-2964 and amendments thereto. Thereafter the district court may on its own motion or upon the written request of any person transfer venue to another district court only for good cause shown.

When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of all pleadings and orders in *the entire file of* the case. The district court shall also immediately send a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated.

(2) After trial required by K.S.A. 59-2965 and amendments thereto, the district court may on its own motion or upon the written request of any person transfer venue to another district court for good cause shown. When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of the petition for determination of mental illness subject to involuntary commitment for care and treatment, the most recent notice of hearing issued by the court, the order changing venue, the current order of treatment, the most recent written report summarizing treatment and any order allowing withdrawal of the patient's attorney entire file of the case. The transferring venue to the treatment facility where the patient is being detained, evaluated or treated. No later than 5.00 p.m. of the second full day the district court transferring venue is open for business following the issuance of the order transferring venue, the district court transferring venue shall send to the receiving district court the entire file of the case by restricted mail.

(b) The district court issuing an order transferring venue, if not in the county of residence of the proposed patient, shall transmit to the district court in the county of residence of the proposed patient a statement of any court costs incurred by the county of the district court issuing the order and, if the county of residence is not the receiving county, a certified *facsimile or electronic* copy of all pleadings and orders in the entire file of the case.

(c) Any district court to which venue is transferred shall proceed in the case as if the petition had been originally filed therein and shall cause notice of the change of venue to be given to the persons named in and in the same manner as provided for in K.S.A. 59-2963 and amendments thereto. In the event that notice of a change of location of a hearing due to a change of venue cannot be served at least 48 hours prior to any hearing previously scheduled by the transferring court or because of scheduling conflicts the hearing court be held by the receiving court on the previously scheduled date, then the receiving court shall continue the hearing for up to seven full working days to allow adequate time for notice to be given and the hearing held.

(d) Any district court to which venue is transferred, if not in the county of residence of the patient, shall transmit to the district court in the county of residence of the patient a

statement of any court costs incurred and a certified *facsimile or electronic* copy of all pleadings and orders entered in the case after transfer.

Sec. 12. On and after July 1, 2009, K.S.A. 59-29b71, as amended by section 8 of this act, is hereby amended to read as follows: 59-29b71. (a) At any time after the petition provided for in K.S.A. 59-29b57 and amendments thereto has been filed venue may be transferred in accordance with this section.

(1) Prior to trial required by K.S.A. 59-29b65 and amendments thereto, *and* before the expiration of two full working days following the probable cause hearing held pursuant to K.S.A. 59-29b59 or 59-29b62 and amendments thereto, the district court them with jurisdiction, on its own motion or upon the written request of any person, may transfer the venue of the case to the district court of the county where the patient is being detained, evaluated or treated in a treatment facility under the authority of an order issued pursuant to K.S.A. 59-29b58, 59-29b59 or 59-29b64 and amendments thereto. Thereafter the district court may on its own motion or upon the written request of any person transfer venue to another district court only for good cause shown. When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of all pleadings and orders in the entire file of the case. The district court shall also immediately send a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated.

(2) After the trial required by K.S.A. 59-29b65 and amendments thereto, the district court may on its own motion or upon the written request of any person transfer venue to another district court for good cause shown. When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of the petition for determination of whether a person is a person with an alcohol or substance abuse problem subject to involuntary cominitment for care and treatment, the most recent notice of hearing issued by the court, the order changing venue, the current order of treatment, the most recent written report summarizing treatment and any order allowing withdrawal of the patient's attorney entire file of the case. The transferring district court shall also immediately send a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated. No later than 5.00 p.m. of the second full day the district court transferring venue is open for business following the issuance of the order transferring venue, the district court transferring venue shall send to the receiving district court the entire file of the case by restricted mail. Upon request of the receiving district court or upon an order of the district court transferring venue, the transferring district court shall send to the receiving district court the entire original file of the case by mail.

(b) The district court issuing an order transferring venue, if not in the county of residence of the proposed patient, shall transmit to the district court in the county of residence of the proposed patient a statement of any court costs incurred by the county of the district court issuing the order and, if the county of residence is not the receiving county, a certified *facsimile or electronic* copy of all pleadings and orders in the entire file of the case.

(c) Any district court to which venue is transferred shall proceed in the case as if the petition had been originally filed therein and shall cause notice of the change of venue to be given to the persons named in and in the same manner as provided for in K.S.A. 59-29b63 and amendments thereto. In the event that notice of a change of location of a hearing due to a change of venue cannot be served at least 48 hours prior to any hearing previously scheduled by the transferring court or because of scheduling conflicts the hearing court shall continue the hearing for up to seven full working days to allow adequate time for notice to be given and the hearing held.

(d) Any district court to which venue is transferred, if not in the county of residence of the patient, shall transmit to the district court in the county of residence of the patient a statement of any court costs incurred and a certified *facsimile or electronic* copy of all pleadings and orders entered in the case after transfer.

Sec. 13. On July 1, 2009, K.S.A. 59-2971, as amended by section 10 of this act, 59-2971, as amended by section 20 of 2009 Senate Bill No.66, 59-29b71, as amended by section

8 of this act, and 59-29b71, as amended by section 21 of 2009 Senate Bill No.66 are hereby repealed.";

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 14, by striking "59-"; in line 15, by striking all before "and" where it appears for the first time and inserting "59-2967, 59-2971, 59-2971, as amended by section 10 of this act, 59-29a19, 59-29b67, 59-29b71, 59-29b71, as amended by section 8 of this act,"; in line 17, before the period, by inserting "; also repealing K.S.A. 59-2971, as amended by section 20 of 2009 Senate Bill No. 66 and 59-29b71, as amended by section 21 of 2009 Senate Bill No. 66";

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

JOHN VRATIL CAROLYN MCGINN LAURA KELLY Conferees on part of Senate

JIM MORRISON LANCE KINZER JANICE L. PAULS Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2195**. On roll call, the vote was: Yeas 34, Nays 0, Present and Passing 0, Absent or Not Voting 6.

Yeas: Abrams, Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Bruce, Emler, Haley, Lynn, McGinn, Steineger. The Conference Committee report was adopted.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on House Substitute for SB 51.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **H Sub for SB 51**.

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **H Sub for SB 51.**

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 51**, 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 as House Substitute for Senate Bill No. 51, as follows:

On page 2, in line 13, by striking "three" and inserting "four"; in lines 29, 37 and 39 by striking "1½" and inserting "two"; in line 34, by striking "shall" and inserting "may"; also in line 34, by striking "land-"; in line 35, by striking "owner" and inserting "prevailing party";

On page 3, in line 19, by striking "three" and inserting "four";

On page 4, in line 17, by striking "shall" and inserting "may"; in line 18, by striking "landowner" and inserting "prevailing party";

On page 5, by striking lines 13 through 18; after line 22, by inserting the following:

"(j) "Municipal services" include police, fire, emergency medical services, park and recreation services, planning, zoning and code enforcement services, water, sewer, storm water drainage, gas, electric or other utility services, street and bridge maintenance and repair, street light maintenance and repair, and any other municipal service that a city may provide to its residents.

(k) "Municipal infrastructure" includes the construction or reconstruction of municipal buildings, parks, roads, bridges, curbs, gutters, sidewalks, crosswalks, drainage works, water facilities, sewer facilities, storm water drainage facilities, gas, electric or other city utility facilities, parking facilities or other infrastructure facilities owned by the city and used to provide municipal services to its residents.";

On page 6, in line 21, by striking "21" and inserting "more than 65"; also in line 21, by striking "or more";

On page 8, by striking lines 28 through 43;

On page 9, by striking lines 10 through 43;

On page 10, by striking all in lines 1 through 14 and inserting the following:

"Sec. 6. K.S.A. 2008 Supp. 12-520 is hereby amended to read as follows: 12-520. (a) Except as hereinafter provided, the governing body of any city, by ordinance, may annex land to such city if any one or more of the following conditions exist:

(1) The land is platted, and some part of the land adjoins the city.

(2) The land is owned by or held in trust for the city or any agency thereof.

(3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city except that no city may annex land owned by a county without the express permission of the board of county commissioners of the county other than as provided in subsection (f).

(4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%.

(5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose.

(6) The tract is so situated that $\frac{4}{3}$ of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.

(7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner.

(b) No portion of any unplatted tract of land devoted to agricultural use of 21 acres or more shall be annexed by any city under the authority of this section without the written consent of the owner thereof.

(c) No city may annex, pursuant to this section, any improvement district incorporated and organized pursuant to K.S.A 19-2753 et seq., and amendments thereto, or any land within such improvement district. The provisions of this subsection shall apply to such improvement districts for which the petition for incorporation and organization was presented on or before January 1, 1987.

(d) Subject to the provisions of this section and subsection (e) of K.S.A. 12-520a, and amendments thereto, a city may annex, pursuant to this section, any fire district or any land within such fire district.

(e) Whenever any city annexes any land under the authority of paragraph 2 of subsection (a) which does not adjoin the city, tracts of land adjoining the land so annexed shall not be deemed to be adjoining the city for the purpose of annexation under the authority of this section until the adjoining land or the land so annexed adjoins the remainder of the city by reason of the annexation of the intervening territory.

(f) No city may annex the right-of-way of any highway under the authority of this section unless at the time of the annexation the abutting property upon one or both sides thereof is already within the city or is annexed to the city in the same proceeding. The board of county commissioners may notify the city of the existence of any highway which has not become part of the city by annexation and which has a common boundary with the city. The notification shall include a legal description and a map identifying the location of the highway. The governing body of the city shall certify by ordinance that the certification is correct and declare the highway, or portion of the highway extending to the center line where another city boundary line abuts the opposing side of the highway, annexed to the city as of the date of the publication of the ordinance.

(g) The governing body of any city by one ordinance may annex one or more separate tracts or lands each of which conforms to any one or more of the foregoing conditions. The invalidity of the annexation of any tract or land in one ordinance shall not affect the validity of the remaining tracts or lands which are annexed by the ordinance and which conform to any one or more of the foregoing conditions.

(h) No city may utilize any provision of this section from and after July 1, 2009, to annex a narrow corridor of land to gain access to noncontiguous tracts of land. The corridor of land must have a tangible value and purpose other than for enhancing future annexations of land by the city.

New Sec. 7. Any city which annexes an area of land under provisions of K.S.A. 12-520 through 12-521, and amendments thereto, shall spend all the proceeds from the ad valorem taxes levied against such land for a period of one year from the date of annexation to provide municipal infrastructure and municipal services, other than police and fire services, to such area. A report documenting the amount of money raised by ad valorem taxes in such area and the amount of money spent in such area shall be made available for public inspection in the city clerk's office.

New Sec. 8. Not less than 60 days before the effective date of any ordinance annexing land into the boundaries of any city:

(a) The city shall give written notice to any rural water district organized pursuant to K.S.A. 82a-612 et seq., and amendments thereto, in whose territory the land or any portion thereof is located of the city's intent to annex such land; and

(b) the notice shall contain the description of the land to be annexed and the city's plan for the provision of water service to the land being annexed.

New Sec. 9. Following annexation of rural water district territory by a city, the city and the district may contract for the district to provide water service to all or certain portions of the annexed area. If the agreement includes a provision for the payment of a franchise fee to the city, such agreement shall be subject to the provisions of K.S.A. 12-2001 et seq., and amendments thereto.

New Sec. 10. (a) Following annexation, the rural water district shall remain the water service provider to the annexed area unless the city gives written notice designating a different supplier. If the city designates a different supplier, the city shall purchase the property, facilities, improvements and going concern value of the facilities of the district located within the territory annexed by the city. If an agreement for the purchase of such property, facilities, improvements and going concern value of the facilities of the district annexed by the city is not executed within 90 days after delivery of the notice designating a different supplier, the city and the rural water district in good faith shall engage in mediation. Unless an agreement is executed, no change in water service provider shall occur and no appraisers shall be appointed until more than 120 days after delivery of the notice of intent to change the water supplier and the mediation has been terminated.

(b) If the district and the city are unable to reach agreement on the reasonable value for such property, facilities, improvements and going concern value of the facilities of the district, then the reasonable value shall be determined in the following manner:

(1) The district and the city shall each select one qualified appraiser and the two appraisers so selected shall then select a third appraiser for the purpose of conducting an appraisal to determine reasonable value of the property, facilities, improvements and going concern value of the facilities of the district annexed by the city. The appraisers shall consider all elements of value, employing any method of valuation the appraisers deem appropriate and shall specifically consider the following factors in determining reasonable value:

(A) Whether any property of the district is rendered useless or valueless to the district;

 $(B) \;$ the amount of damage to property remaining in the ownership of the district following annexation;

(C) impact on the existing indebtedness of the district and such district's ability to repay that debt;

(D) the value of the service facilities of the district located within the area in question;
 (E) the amount of any expenditures for planning, design or construction of service facilities outside the incorporated or annexed area that are allocable to service to the area in question;

(F) the amount of the district's contractual obligations allocable to the area in question;

(G) any demonstrated impairment of service or increase of cost to consumers of the district remaining after the annexation and the impact on future revenues lost from existing customers;

(H) any necessary and reasonable legal expenses and professional fees;

(I) any factors relevant to maintaining the current financial integrity of the district;

(J) the average increase in the number of benefit units in the area annexed for the three years immediately preceding such annexation; and

(K) any other relevant factors as agreed to by the three appointed appraisers.

(2) The appraisers shall hear such evidence as the appraisers deem appropriate and shall make a written summary of findings and conclusions. The agreement or decision of at least two of the three appraisers shall be the fair market value presented to the city for payment and the district for acceptance.

(3) If either the district or the city is dissatisfied with the decision of the appraisers, then the district or the city may appeal within 30 days such award to the district court. Such appeal shall be heard de novo by the court without a jury.

(c) The compensation required by this section shall be paid to the district whether or not the city actually utilizes the facilities of the district for the delivery of water to property within the city and shall be paid at a time not later than 120 days following the date upon which the fair market value of the facilities are certified to the city and to the district, or at such later date as may be mutually agreed upon by the city and the district or as may be determined by the district court.

(d) In any event, the district may elect to retain facilities located within the city used for transmission of water, provided that the district use those facilities to continue to supply water service to benefit units outside the city. The district shall not receive compensation for facilities it elects to retain.

(e) Except as otherwise provided, nothing in this section shall be construed as limiting the authority of a city to select water service suppliers to areas within the city limits, or to limit the authority of a city to adopt and enforce regulations for the operation of a water service supplier, including, but not limited to, standards of water quality, classification of water customers, capacity of water system, water system connections to sanitary sewer systems, rates and billing practices and other regulations for protection of the public health, safety and welfare.

(f) In the event that a district will no longer be the water supplier to land as a result of annexation and notice pursuant to subsection (a), the district shall continue to provide such service until the city gives notice of its assumption of responsibility for service, designating the date that the service shall transfer to the supplier designated by the city. The district and the city shall cooperate as necessary to minimize the inconvenience to water customers as a result of the transfer. The city shall give written notice to each customer of the district for whom water service is being transferred specifying the name and address of the new supplier, the effective date of the transfer, the reason for the transfer and a schedule of applicable rates. The district at the time of annexation during the period of negotiations unless such customer has violated district bylaws or rules and regulations.

(g) Following the transfer of water service from the district to the city, the annexed land, or amount of such land for which water service has been transferred to the city, shall be deleted from the territory of the district and all benefit units attached to land located therein shall be canceled without compensation. Notice of such deletion of territory shall be provided to the county clerk and the chief engineer of the division of water resources of the department of agriculture. Sec. 11. K.S.A. 2008 Supp. 82a-612 is hereby amended to read as follows: 82a-612. As used in this act, unless the context clearly requires otherwise:

(a) "District" means a rural water district organized pursuant to this act;

(b) "board" means the governing body of a district;

(c) the terms "board of county commissioners" and "county clerk" shall mean, respectively, the board of county commissioners and county clerk of the county in which the greatest portion of the territory of any existing or proposed rural water district is located;

(d) "participating member" means an individual, firm, partnership, association or corporation which owns land located within a district and:

(1) Which has subscribed to one or more benefit units of such district; or

(2) which is charged a franchise fee for water service which is paid, either directly or indirectly through another water provider, to such district;

(e) "chief engineer" means the chief engineer of the division of water resources, Kansas department of agriculture.

Sec. 12. K.S.A. 2008 Supp. 82a-646 is hereby amended to read as follows: 82a-646. (a) Terms used in this section shall have the meanings provided by K.S.A. 82a-612, and amendments thereto.

(b) If certain lands included within a district cannot be economically or adequately served by the facilities of the district, the owners of such lands may petition the board of directors of the district to release those lands from the district. The petition shall describe the lands requested to be released and shall be signed by at least 75% of the total number of the owners of the lands requested to be released. The board of directors may prescribe a fee to be collected from the petitioners for the purpose of offsetting costs reasonably expected to be incurred by the district in hearing the request for release. The petition for release, together with a verified list of the names and addresses of all owners of the land requested to be released, and the prescribed fee, shall be filed with the secretary of the district.

(c) If the board of directors of the district finds the petition to be in proper form, the board shall conduct a hearing on the petition for release. Notice of the time and place of the hearing shall be mailed to all owners of land requested to be released not later than 10 days before the hearing. The hearing may be continued from time to time without further notice to landowners.

(d) In considering the petition for release, the board shall consider whether the lands requested to be released cannot be economically or adequately served by the facilities of the district and whether the release would be in the best interests of the landowners and the district, based on the following factors. make specific written findings of fact and conclusions determining whether the lands requested to be released cannot be economically or adequately serviced by the facilities of the district and whether such release would be in the best interests of the landowner and the district. The findings and conclusions shall be based upon the preponderance of evidence presented to the board. In determining whether to grant the petition for release, the board's considerations shall be based on the following factors:

(1) Whether the petitioners for release of lands have applied for one or more benefit units to serve the lands requested to be released, which applications have been denied directly or where the cost of the benefit units or service or equipment is unreasonable, excessive or confiscatory so as to render service unavailable;

(2) the length of time before the board of directors reasonably expect to make water service available to the lands requested to be released;

(3) whether water service is available from another source if the lands are released from the district *and the relative cost of obtaining service from each source*;

(4) if water service is available from the district to the lands requested to be released, the relative cost of obtaining such water service, as determined by the district, compared to the additional value of the lands after water service is made available;

(5) if water service is available from the district, the cost of obtaining such water service, as determined by the district, compared to the cost of obtaining water from another source;

(6) whether any applicable law will prevent any other water suppliers from serving the lands requested to be released; and

(7) whether the district's interest in maintaining the integrity of its territory is outweighed by the landowners' need to obtain a source of supply of water to the lands requested to be released;

(8) whether the decision of such board to deny release of lands would allow the district to yield more than adequate compensation;

(9) whether the district establishes a rate for services or equipment that is disproportionate to the services rendered;

(10) whether the district has provided water service to residents or landowners within the disputed territory and would be losing existing customers or whether the disputed territory would supply new customers;

(11) whether the district can provide a safe and adequate supply of water to customers of such district and whether a greater level of water service can be provided by another provider and the relative cost of each option;

(12) whether such board's refusal to detach the territory would result in any economic waste or hinder any economic development; and

(13) where a district provides water service to residences and where a city is required to provide fire protection services, if duplicate water service lines would cause any economic or physical waste.

(d) The board may approve the release of all or part of the lands requested to be released or may deny the request. The burden of proof shall be on the petitioners for release. The board of directors shall make a determination on the petition for release within 120 days after its receipt, shall record its *written* findings *and conclusions* in the minutes of the district and shall mail a copy of such *written* findings *and conclusions* to each petitioner within seven days.

(e) *Except as provided in subsection (f)*, any owner of land requested to be released from the district who is dissatisfied with the determination of the board of directors on the petition for release may bring an action in the district court of the county in which the district is located to determine if the board of directors of the district abused its discretion in making such determination. Such appeal shall be filed within 30 days after the final decision of the board.

(f) If the district denies the landowner's petition for release because such release would not yield adequate compensation to the district, once such release is denied, the district and the landowner shall determine the amount of compensation sufficient to enable the district to be adequately compensated from the release in the following manner:

(1) The district and the landowner shall each select one qualified appraiser and the two appraisers so selected shall then select a third appraiser for the purpose of conducting an appraisal to determine the amount of compensation sufficient to enable the district to be adequately compensated from the release. The appraisers shall consider all elements of value, employing any method of valuation the appraisers deem appropriate and shall specifically consider the following factors in determining reasonable value:

(A) Whether any property of the district is rendered useless or valueless to the district;

(B) the impact on the existing indebtedness of the district and such district's ability to repay that debt;

(C) the value of the service facilities of the district located within the area in question;

 $(D) \quad the \ amount \ of \ the \ district's \ contractual \ obligations \ allocable \ to \ the \ area \ in \ question;$

(E) any demonstrated impairment of service or increase of cost to consumers of the district remaining after the release and the impact on future revenues lost from existing customers;

(F) any necessary and reasonable legal expenses and professional fees;

(G) any factors relevant to maintaining the current financial integrity of the district; and

(H) any other relevant factors.

(2) The appraisers shall hear such evidence as the appraisers deem appropriate and shall make a written summary of findings and conclusions. At least two of the three appraisers shall agree as to the amount of compensation owed by the landowner to the district and shall require such payment from the landowner to the district for acceptance.

(3) If either the district or the landowner is dissatisfied with the decision of the appraisers, then the district or the landowner may appeal within 30 days such award to the district court. Such appeal shall be heard de novo by the court without a jury.

(f) (g) If the board of directors of the district approves the petition, or if the district court on appeal determines that the board abused its discretion in denying release, a copy of the board's action approving the release or of the district court's order on appeal, as the case may be, shall be transmitted to the chief engineer and to the county clerk, who shall note the change of such district's boundaries.

New Sec. 13. The provisions of sections 8 through 10, and amendments thereto, shall be part of and supplemental to the Kansas rural water district act.

Sec. 14. K.S.A. 12-519, 12-520b, 12-521, 12-531, 12-532 and K.S.A. 2008 Supp. 12-520, 82a-612 and 82a-646 are hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 9, by striking all after "ACT"; by striking all in lines 10 and 11 and inserting "concerning local governments; relating to boundary issues; amending K.S.A. 12-519, 12-520b, 12-521, 12-531 and 12-532 and K.S.A. 2008 Supp. 12-520, 82a-612 and 82a-646 and repealing the existing sections.";

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

SHARON SCHWARTZ LANCE KINZER JOSH SVATY Conferees on part of House CAROLYN MCGINN JOHN VRATIL MARCI FRANCISCO Conferees on part of Senate

Senator McGinn moved the Senate adopt the Conference Committee Report on H Sub for SB 51.

On roll call, a call of the Senate was requested by five senators.

On roll call, the vote was: Yeas 23, Nays 11, Present and Passing 0, Absent or Not Voting 6.

Yeas: Abrams, Apple, Barnett, Brownlee, Colyer, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Lee, Masterson, McGinn, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Taddiken, Teichman, Wagle, Wysong.

Nays: Brungardt, Kultala, Marshall, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Umbarger, Vratil.

Absent or Not Voting: Bruce, Donovan, Emler, Haley, Lynn, Steineger.

The Conference Committee report was adopted.

The call of the Senate was lifted.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION No. 1619-

By Senators Morris, D. Schmidt and Hensley

A CONCURRENT RESOLUTION relating to the 2009 regular session of the legislature and providing for an adjournment thereof.

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the legislature shall adjourn at the close of business of the daily session convened on May 8, 2009, until the hour of 10:00 a.m. on June 4, 2009, at which time the legislature shall reconvene and shall continue in session until sine die adjournment at the close of business on June 4, 2009; and

Be it further resolved: That the chief clerk of the house of representatives and the secretary of the senate and employees specified by the director of legislative administrative services for such purpose shall attend their duties each day during periods of adjournment, Sundays excepted, for the purpose of receiving messages from the governor and conducting such other business as may be required; and

Be it further resolved: That members of the legislature shall not receive the per diem compensation and subsistence allowances provided for in subsections (a) and (b) of K.S.A. 46-137a, and amendments thereto, for any day within a period in which both houses of the legislature are adjourned for more than two days, Sundays excepted; and

Be it further resolved: That members of the legislature attending a legislative meeting of whatever nature when authorized pursuant to law, or by the President of the Senate, the Speaker of the House of Representatives or the Legislative Coordinating Council during the period of adjournment for which members are not authorized per diem compensation and subsistence allowances pursuant to K.S.A. 46-137a, and amendments thereto, shall receive compensation and travel expenses or allowances as provided by K.S.A. 75-3212, and amendments thereto.

On motion of Senator D. Schmidt, SCR 1619 was adopted by voice vote.

On motion of Senator D. Schmidt and in compliance with **SCR 1619**, the Senate adjourned until Sine Die at 10:00 a.m., Thursday, June 4, 2009.

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor on **SENATE Substitute for Substitute** for **HOUSE BILL No. 2014**, AN ACT concerning energy; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 19-101a, 55-1,117, 65-3012 and 66-104d and K.S.A. 2008 Supp. 65-3005, 65-3008a, 66-1,184, 74-99d07 and 74-99d14 and repealing the existing sections; also repealing K.S.A. 19-101m., was received on April 13, 2009, and read on April 29,2009.

Message from the Governor

"Last year, I vetoed legislation that forced the Secretary of the Kansas Department of Health and Environment to issue air quality permits for two new coal fired plants which would produce 11 million tons of carbon dioxide each year. These new plants would generate 1400 megawatts of electricity, most of which would be exported to Colorado and Texas. In fact, Kansas would only get 200 megawatts of electricity, while we would get all of the new pollution.

"I vetoed that legislation because while the rest of the country was trying to reduce greenhouse emissions, Kansas would be creating massive new emissions for power we don't need. Additionally, it appeared that federal legislation that would penalize new carbon dioxide emissions was on the horizon leaving Kansans vulnerable for years to come.

"The bill before me now attempts to take us down that failed path once again. What was a bad idea last year, is an even worse idea today. Now, we know that according to Sunflower Electric's own reports, their customers will not need additional power until 2018. We also know that President Obama is moving aggressively to regulate new carbon dioxide emissions. These developments reaffirm that now is not the time for new coal plants in Kansas.

"Prior to the start of this legislative session, Lieutenant Governor Parkinson and I worked with utility stakeholders to develop a renewable portfolio standard that would have further developed the natural resource we have in wind energy. Our proposed energy legislation contained real net-metering so that Kansans would be fairly compensated for power they generated; we also included energy efficiency measures to reduce our future energy needs.

"We presented these proposals to the legislature, with the hope that the legislature would move towards a renewable energy economy creating thousands of jobs right here in Kansas. However, the legislature chose instead to sacrifice real comprehensive energy legislation in the pursuit of more coal-fired power plants.

"Despite what supporters of this legislation say, HB 2014 does little to advance clean, renewable energy. In fact, the renewable energy standards established in HB 2014 are less

than the voluntary standards we already have today. The net metering provisions in the bill are weaker than any of the 42 states that currently offer net metering to utility consumers.

"Kansas needs legislation that will increase development of our renewable energy resources, increase energy efficiency measures and create good-paying jobs. Once again, as the rest of the country moves toward a renewable energy future, the legislature is intent on darkening Kansas' energy future with new coal plants that will provide energy we don't yet need.

"I encourage the legislature to abandon its efforts to saddle Kansas with massive new carbon dioxide emissions, and instead adopt a plan that will take advantage of our enormous wind assets and really look at energy efficiency as a way to stretch our power sources well into the future while creating thousands of sustainable Kansas jobs.

"Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto House Bill 2014."

Kathleen Sebelius, Governor Dated: April 13, 2009

There being no motion to reconsider **Senate Substitute for Substitute for House Bill No. 2014**, the veto was sustained.

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor on **House Bill No. 2121**, AN ACT concerning agriculture; relating to application of swine waste; pesticide and fertilizer programs; fees; milk and dairy products; fees and labeling requirements; amending K.S.A. 2-2203, 2-2206, 2-2206, 2-2207, 2-2209, 2-2214, 2-2440a, 2-2440c, 2-2440e, 2-2446e, 2-2449, 2-2450, 2-2454, 2-2455, 2-2470 and 2-2471 and K.S.A. 2008 Supp. 2-1205, 2-2202, 2-2204, 2-2438a, 2-2440b, 2-2440b, 2-2441a, 2-2443a, 2-2445a, 2-2469, 2-2905, 2-2906, 2-3304, 2-3306, 2-3309, 2-3318, 65-778, 65-781 and 65-1,182 and repealing the existing sections; also repealing K.S.A. 2-1211 and 2-2466, was received on April 23, 2009 and read on April 29, 2009.

Message from the Governor

"House Bill 2121 contains a number of provisions relating to pesticide and fertilizer laws and fees as well as dairy inspection and dairy-related fees. Without these fees, Kansas could lose important programs that support essential agricultural business operations in our state. I urge the legislature to send me these components in an independent bill so I can affix my signature and the Department of Agriculture can effectively administer these programs.

"However, the Bill before me also provides for changes in dairy labeling that could make it more difficult to provide consumers with clear information.

"The milk labeling provisions negatively impact a dairy producer's ability to inform consumers that milk is from cows not treated with recombinant bovine growth hormone (rBST).

"Supporters of the bill claim it's necessary to protect consumers from false or misleading information. Yet there has been overwhelming opposition by consumer groups, small dairy producers and retailers to this proposed legislation.

"Furthermore, I am concerned that patchwork labeling requirements that differ from state to state will make it too expensive, in an already troubled economy, to provide consumers with information regarding the dairy products they purchase.

"Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto HB 2121."

Kathleen Sebelius, Governor Dated: April 23, 2009

There being no motion to reconsider House Bill No. 2121, the veto was sustained.

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor on **HOUSE BILL No. 2172**, AN ACT concerning taxation; relating to cash rebates on sales or leases of new motor vehicles; exemptions; valuation of land devoted to agricultural use for estate tax purposes; periods of limitation for income tax refunds and adjustments of income; homestead property tax refunds; amending K.S.A. 2008 Supp. 79-15,253, 79-3230, 79-3602, as amended by section 1 of 2009 House Bill No. 2321, 79-3603, 79-3606 and 79-4502 and repealing the existing sections, was received on April 23, 2009 and read on April 29, 2009.

Message from the Governor

"Many of the organizations requesting tax exemptions in HB 2172 are worthy organizations with important missions; and individually, their requests do not amount to much of a loss in state revenues. However, when added together, the loss in state revenue grows dramatically from \$4.5 million in the first year, to more than \$11 million just a few years from now.

"On April 17th we learned that state revenues leave a deficit gap of \$328 million, impacting the budgets of critical social service programs. With this in mind, I am concerned that further reducing revenues through tax breaks would negatively impact the budgets of critical services for Kansans.

"While the intent of this legislation is good, given the incredible economic challenges and revenue deficits we are facing, we simply are not able to offer these additional tax breaks right now.

"Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto HB 2172."

Kathleen Sebelius, Governor Dated: April 23, 2009

There being no motion to reconsider House Bill 2172, the veto was sustained.

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor on SENATE Substitute for HOUSE BILL No. 2354, AN ACT making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, and June 30, 2014, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending section 95 of 2009 House Substitute for Substitute for Senate Bill No. 23 and K.S.A. 2008 Supp. 2-223, 12-5256, 55-193, as amended by section 87 of 2009 House Substitute for Substitute for Senate Bill No. 23, 75-6702, 76-7,107, 79-2959, 79-2964, 79-2978, as amended by section 88 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-2979, as amended by section 89 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-3425i, as amended by section 90 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-4801, as amended by section 92 of 2009 House Substitute for Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Substitute for Senate Bill No. 23, and repealing the existing sections., received on April 13, 2009, read on April 29, 2009.

Message from the Governor

Message to the House of Representatives

"In January, I presented the legislature a balanced budget for Fiscal Year 2010 that cut state spending while protecting our schools and our most vulnerable Kansans. In the months following my budget proposal, it became clear that state revenues would continue to decline dramatically as a result of the national economic recession. That's why my budget, and its subsequent budget amendments, proposed millions of dollars in additional savings.

"Unfortunately, the legislature chose not to take action on a number of these cost saving measures. Consequently, the additional cuts to education and services the legislature has

imposed in this bill give me pause, particularly when they chose to leave millions of dollars in revenue on the table that would have made these cuts unnecessary.

"Furthermore, the American Reinvestment and Recovery Act provides Kansas an opportunity to protect our investment in our children's education. Because there is still uncertainty regarding the minimum threshold of funding a state must maintain to access these funds, we should not put this funding in jeopardy. I encourage the legislature to reconsider the revenue enhancements they have chosen to ignore, before further slashing education and other vital state services.

"Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return Senate Substitute for House Bill No. 2354 with my signature approving the bill, except for the items enumerated below:

Kansas Savings Incentive Program

KSIP Authorization

Sections 30, 98(i), and 100 have been line-item vetoed in their entirety.

As part of my budget recommendations, I abolished this program and swept available monies to the State General Fund. The legislature chose to reinstate the program for FY 2010. This action is contrary to the purpose of strategically reducing agency budgets and should be reconsidered.

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Kansas Technology Enterprise Corporation

Agency Status

Section 56 has been line-item vetoed in its entirety.

I believe that the State of Kansas has an important role in encouraging economic development and helping Kansas get through economically difficult times. The challenges that Kansas has experienced with the downturn of the economy also bring great opportunities. Kansas needs to reexamine its economic development efforts to ensure that they are focused, efficient and positioned to grow the economy in the future. In light of recent evaluations of the Kansas Technology Enterprise Corporation (KTEC), and given our limited state resources, it makes little sense to use the same system and expect different results. KTEC, under its current organization and operation, has struggled to produce a solid return on our investment in recent years. Therefore, I veto this section to allow the legislature to thoroughly review this program to ensure Kansas is positioned to develop a strong economy for years to come.

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Regents System

Use of State Fiscal Stabilization Fund Monies

That portion of Section 72(b) that reads as follows has been line-item vetoed:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Fort Hays state university shall be expended only for deferred maintenance."

That portion of Section 73(b) that reads as follows has been line-item vetoed:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university shall be expended only for deferred maintenance."

That portion of Section 74(b) that reads as follows has been line-item vetoed:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university extension systems and agriculture research programs shall be expended only for deferred maintenance."

That portion of Section 75(b) that reads as follows has been line-item vetoed:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university veterinary medical center shall be expended only for deferred maintenance."

That portion of Section 76(b) that reads as follows has been line-item vetoed:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Emporia state university shall be expended only for deferred maintenance."

That portion of Section 77(b) that reads as follows has been line-item vetoed:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Pittsburg state university shall be expended only for deferred maintenance."

That portion of Section 78(b) that reads as follows has been line-item vetoed:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—university of Kansas shall be expended only for deferred maintenance."

That portion of Section 79(b) that reads as follows has been line-item vetoed:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—university of Kansas medical center shall be expended only for deferred maintenance."

That portion of Section 80(b) that reads as follows has been line-item vetoed:

"*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Wichita state university shall be expended only for deferred maintenance."

That portion of Section 81(b) that reads as follows has been line-item vetoed:

"*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund shall be expended only for deferred maintenance."

That portion of Section 81(b) that reads as follows has been line-item vetoed:

"*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund—community colleges shall be expended only for deferred maintenance."

That portion of Section 81(b) that reads as follows has been line-item vetoed:

"*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund—municipal university shall be expended only for deferred maintenance."

That portion of Section 81(b) that reads as follows has been line-item vetoed:

"*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund—postsecondary technical education shall be expended only for deferred maintenance."

Early in FY 2009 the Kansas higher education system began to plan for the possibility that state support in FY 2010 could be as much as 7.0 percent below the approved level for FY 2009. Although the cuts are planned, they will have a significant and negative impact across the state's system. However, given the enacted budget, the Board of Regents has stated that its plan would be to allocate the Recovery Act funds for deferred maintenance as well as tuition cost mitigation. The board notes that it would be unable impose a tuition freeze if the level of state support fell below what I have proposed for FY 2010. Now is not the time to make college less affordable.

My veto of the Federal Higher Education Fiscal Stabilization Fund provisos for FY 2010 will allow the Board of Regents to implement its plan and become a partner with the state

in these challenging times. I therefore find it necessary to veto these constraints placed on the Federal Higher Education Fiscal Stabilization Fund.

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Animal Health

Transfer of Federal Monies to the State General Fund

Section 93(f) has been line-item vetoed in its entirety.

The Greensburg Account of the Disease Control—Federal Fund was established to receive federal reimbursement for the Animal Health Department's expenditures related to expenses incurred during the Greensburg tornado recovery and care of animals. This section, as written, does not follow proper accounting procedures for a transfer of these federal monies to the State General Fund. Given the enormous impact federal funds have on our budget, we must properly account for the monies.

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Journal of the Senate

SIXTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, June 4, 2009—10:00 a.m.

As provided by **SCR 1619**, the Sine Die Session of the regular 2009 Kansas Senate was called to order by President Stephen Morris.

The roll was called with thirty senators present.

Senators Colyer, Donovan, Lee, Ostmeyer, V. Schmidt, Schodorf, Steineger, Teichman, Wagle and Wysong were excused.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Once more we've been informed The budget's come up short. Reducing programs for the needy Could be our last resort.

Many of us have thought for years That our government's been forced to do What we Christians and our churches Could contribute much more to.

In the book of Matthew (25:31-46) Jesus makes it clear Who will inherit His kingdom When judgement day is here.

Those who feed the hungry And take care of the sick; Who give the thirsty water Are those whom Jesus picked.

Also those who house the homeless, And furnish clothing for those in need, Who visit those in prison Have served the Lord in deed.

Help us, Lord, to do our part To help take up the slack By increasing our donations So the needy will not lack.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

MESSAGE FROM THE HOUSE

The House adopts SCR 1619.

REPORT ON ENGROSSED BILLS

SB 41, SB 336 reported correctly engrossed May 11, 2009.
SB 33 correctly re-engrossed May 11, 2009.
H Sub for SB 51, H Sub for SB 168 reported correctly engrossed May 12, 2009.
SB 84 correctly re-engrossed May 12, 2009.

REPORT ON ENROLLED BILLS

SB 33, SB 41; H Sub for SB 51; SB 84; H Sub for SB 168; SB 171, SB 336 reported correctly enrolled, properly signed and presented to the Governor on May 15, 2009.

SR 1892, SR 1893, SR 1894, SR 1895, SR 1896 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 13, 2009.

SCR 1619 reported correctly enrolled, properly signed and presented to the Secretary of the State on May 14, 2009.

MESSAGE FROM THE GOVERNOR

SB 33, SB 41 approved on May 21, 2009.
 SB 84, SB 336; House Substitute for Senate Bill 168 approved on May 22, 2009.

MESSAGE FROM THE GOVERNOR

May 12, 2009

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Directive No. 09-397 for your information.

Sincerely,

MARK PARKINSON Governor

The President announced Executive Directive No. 09-397, Authorizing Expenditure of Federal Funds, is on file in the office of the Secretary of the Senate and is available for review at anytime.

MESSAGE FROM THE GOVERNOR

Veto Message for House Substitute for SB 51:

The state should not take action that limits the ability of cities to pursue developments that will lead to economic growth, especially during these difficult economic times. Cities in Kansas must have the flexibility to annex property that will allow growth and economic development. Planning for growth in a way that promotes the health, safety and public welfare of its citizens and neighbors also is a fundamental responsibility of cities.

I support the procedural safeguards for landowners whose property is annexed over their objection that are contained in **House Substitute for SB 51**. I also support the provisions limiting a city's future ability to annex a narrow corridor of land to reach a non-contiguous tract of land, and the provisions dealing with rural water districts. I hope the Legislature will focus on these aspects of **House Substitute for SB 51** during the next legislative session.

I am concerned that the provisions in **House Substitute for SB 51** that prohibit a city from annexing more than 65 acres of land devoted to agricultural use may prevent cities from growing in ways that would greatly benefit the economy. I have confidence that the current requirement for a county commission to approve a city's proposed annexation of property in the unincorporated county provides a safeguard from unreasonable annexation attempts.

Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto House Substitute for Senate Bill 51.

Vetoed: May 22, 2009 Signed: Mark Parkinson, Governor

MESSAGE FROM THE GOVERNOR

Veto Message for SB 171:

This legislation contains a provision which I would be happy to sign into law, the opportunity for overseas and military voters to vote more easily. Allowing federal service voters to register and send ballots by e-mail will make it easier for more Kansans living abroad to participate. Fortunately, the Legislature still has time to send me these provisions in a clean bill before the 2010 elections.

However, this legislation also contains provisions which will discourage advance voting, burdening the democratic process in Kansas. Last year, more than 70 percent of registered voters in Kansas participated in the Presidential election. During that election, as with all elections before it, there was no conclusive evidence of voter fraud in Kansas. Despite this lack of a problem, **SB 171** seeks to find a solution by adding affidavits and signature lines to an already crowded return envelope for an advance ballot. These unnecessary hurdles will inevitably confuse voters and discourage many of them from voting.

County election officials have suggested repeatedly that there is not conclusive evidence of voter fraud in Kansas. In fact, more and more Kansans are voting early; this is a trend we should be encouraging, not disrupting.

Again, I look forward to working with the Legislature next session to sign into law legislation that involves more people in our democracy, without creating new and needless obstacles to the voting process. Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto **SB 171**.

Vetoed: May 22, 2009 Signed: Mark Parkinson, Governor

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Kultala, Brownlee, Faust-Goudeau, Francisco, Kelly, Lee, Lynn, McGinn, Pilcher-Cook, V. Schmidt, Schodorf, Teichman and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1897-

A RESOLUTION recognizing the 90th anniversary of the passage of the 19th Amendment to the United States Constitution.

WHEREAS, On June 4, 1919, the 19th Amendment to the United States Constitution, which stated that "the rights of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex," passed both houses of Congress and was sent to the states for ratification; and

WHEREAS, Kansas ratified the 19th Amendment on June 16, 1919, and it went into effect on August 18, 1920; and

WHEREAS, Kansas was also a leader in pushing for the passage of the Equal Rights Amendment and was one of the first states to ratify it, doing so on March 28, 1972; and

WHEREAS, The women's suffrage movement was founded in the mid-19th century by women who had become politically active through their work in the abolitionist and temperance movements. In July 1848, 240 women suffragists, including Elizabeth Cady Stanton and Lucretia Mott, met in Seneca Falls, New York, to assert the right of women to vote; and

WHEREAS, In 1869, the National Woman Suffrage Association, led by Susan B. Anthony and Elizabeth Cady Stanton, was formed to push for an amendment to the United States Constitution. Another organization, the American Woman Suffrage Association, led by Lucy Stone, was organized in the same year to work through the state legislatures. In 1890, these two societies merged to form the National American Woman Suffrage Association; and WHEREAS, By the beginning of the 20th century, the role of women in American society was changing drastically; women were working more, receiving a better education, bearing fewer children and several states had authorized female suffrage. In 1913, the National Woman's party organized the voting power of these enfranchised women to elect congressional representatives who supported woman suffrage and by 1916, both the Democrat and Republican parties openly endorsed female enfranchisement, leading to the passage of the 19th Amendment in 1919; and

WHEREAS, The State of Kansas has a proud tradition of pushing for equal rights for all citizens: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize the 90th anniversary of the passage of the 19th Amendment, granting women the right to vote, and that we acknowledge the contributions made by the state of Kansas towards equality for all; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senators Kelly Kultala and Marci Fancisco.

On emergency motion of Senator Kultala SR 1897 was adopted unanimously.

VETOES SUSTAINED

President Morris announced the time had arrived for reconsideration of **H Sub for SB 51**, An act concerning local governments, relating to boundary issues, amending K.S.A. 12-519, 12-520b, 12-521, 12-531 and 12-532 and K.S.A. 2008 Supp. 12-520, 82a-612 and 82a-646 and repealing the existing sections, having been read on June 4, 2009.

No motion having been offered to reconsider, President Morris announced the Governor's veto of **H Sub for SB 51** was declared sustained.

President Morris announced the time had arrived for reconsideration of **SB 171**, An act concerning elections; pertaining to efficiency in handling ballots from military personnel and other official services absentee voters; pertaining to advance voting ballots; pertaining to candidate filing deadlines; amending K.S.A. 25-205, 25-1218 and 25-4004 and K.S.A. 2008 Supp. 25-1124, 25-1128 and 25-1216 and repealing the existing sections, having been read on June 4, 2009.

No motion having been offered to reconsider, President Morris announced the Governor's veto of **SB 171** was declared sustained.

There being no further business to be considered, Senator D. Schmidt moved, as provided in **SCR 1619**, the Senate adjourn Sine Die. The motion prevailed.

President Morris thereupon announced: "By virtue of the authority vested in me as President of the Senate, I now declare the 2009 Session of the Kansas Senate adjourned Sine Die."

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor **Senate Substitute for HB 2373**, AN ACT making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, and June 30, 2014, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2008 Supp. 12-5256, as amended by section 136 of 2009 Senate Substitute for House Bill No. 2354, 76-7,107, as amended by section 88 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-2979, as amended by section 89 of 2009 House Substitute for Substitute for Substitute for Senate Bill No. 2354, 79-34,256, as amended by section 91 of 2009 Senate Substitute for Substitute for House Bill No. 23, 24251, as amended by section 91 of 2009 House Substitute for Substitute for House Bill No. 2354, 79-34,156, as amended by section 91 of 2009 House Substitute for Substitute for House Bill No. 2354, 79-4801, as amended by section 145 of 2009 Senate Substitute for House Bill No. 2354, not repealing the existing sections; also repealing section 102 of 2009 Senate

Substitute for House Bill No. 2354, 79-2978, as amended by section 142 of 2009 Senate Substitute for House Bill No. 2354, and 79-2979, as amended by section 143 of 2009 Senate Substitute for House Bill No. 2354, received on May 22, 2009, read on June 4, 2009.

Message from the Governor

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return Senate Substitute for House Bill No. 2373 with my signature approving the bill, except for the items enumerated below.

Department of Education—KPERS—School Employer Contributions

That portion of Section 36(a) that reads as follows has been line-item vetoed:

"For the fiscal year ending June 30, 2010 \$1,850,000"

This FY 2010 appropriation for the KPERS—School employer contribution was accounted for in the agency's lapse contained in Section 36(b). In order to appropriate only those monies absolutely necessary, I hereby line-item veto this appropriation.

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Kansas State University

Section 70(c) has been line-item vetoed in its entirety:

Financing of the Salina Aeronautical Center located at Kansas State University's Salina Campus is a lease purchase agreement that is by its nature equivalent to a debt service agreement. The 2009 Legislature intended that funding of debt service should not be lapsed, and I concur with that intent. In that spirit, I therefore find it necessary to veto this lapse so that this obligation can be met.

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Department of Health and Environment

Section 89 has been line-item vetoed in its entirety:

"Regardless of one's views on whether abortion should be allowed in this country, hopefully we can all agree that we should make every effort to prevent unplanned pregnancies. Access to affordable family planning services and contraceptives is critical if we are to continue reducing the number of abortions that occur in this state.

"This section would prohibit distribution of Title X moneys to private family planning providers unless they are either a hospital or provide comprehensive primary and preventative care in addition to family planning services. This proviso would prevent funding for two facilities of other eligible family planning providers. These facilities do not perform abortions, and by law, Title X funding cannot be used for abortion services.

"Both of these facilities provide affordable access to contraceptives and family planning services for women who are significantly below the poverty level. These women are most at risk for unplanned pregnancies. The family planning services provided by these facilities help lower the likelihood of unplanned pregnancy, and thus reduce abortions. Eliminating funding for programs intended to reduce the number of unplanned pregnancies does nothing to help reduce abortions in Kansas.

"I am also concerned this proviso violates Title X of the Public Service Act. The facilities ineligible for funding under this proviso are, by law, eligible under Title X to receive the grants. The Public Service Act is clear that states are not permitted to refuse the award of Title X funding to entities that meet the statutory requirements for the grants. I therefore find it necessary to line-item veto this proviso."

JOURNAL OF THE SENATE

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

MARK PARKINSON Governor

REPORT ON ENROLLED BILLS

SR 1897 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on June 5, 2009.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, Journal Clerks.

PAT SAVILLE, Secretary of the Senate.

906

SHORT TITLE AND HISTORY

OF

SENATE BILLS

AND

SENATE RESOLUTIONS

(HJ Nos. refer to 2009 House Journal)

(909)

S 1. William Inge Theatre Festival designated as the official theatre festival of the state. (Schmidt, D)

Introduced—8; **HJ**—148 Referred—33; **HJ**—152 Report of committee—109; **HJ**—341 Committee of whole report—**HJ**—433 Final Action—139; **HJ**—437 Enrolled—558 Action of Governor—756

S 2. Governmental ethics; placing two years restriction on certain state officers, employees and appointees before becoming lobbyist. (Hensley)

Introduced—9

Referred-33

S 3. House Sub for S 3 by Committee on Elections — Elections; voters; photo identification required; free photo identification, certain persons. (Hensley)

Introduced—9; **HJ**—116, 286 Referred—33; **HJ**—126, 442 Report of committee—95; **HJ**—286 Committee of whole report—109 Final Action—110

S 4. Kansas turnpike authority, speed based tolls. (Haley)

Introduced—9 Referred—33

S 5. Designating part of U.S. 160 as the 1011th Quartermaster Co. U.S. Army Reserve memorial highway. (Schmidt, D) Introduced—9; HJ—116 Referred—33; HJ—126 Report of committee—95; HJ—258 Committee of whole report—HJ—280 Final Action—108; HJ—286 Enrolled—403 Action of Governor—532

S 6. Sub for S 6 by Committee on Judiciary — Professional fund raisers; required disclosures. (Schmidt, D)

Introduced—9; **HJ**—137 Referred—33; **HJ**—141 Report of committee—109 Committee of whole report—121 Final Action—121

S 7. School finance; state aid; increases based on CPI-U. (Legislative Educational Planning Committee)

Introduced—9 Referred—33 **S 8.** Kansas tort claims act; medical students enrolled at university of Kansas medical center. (Legislative Educational Planning Committee)

Introduced—9; **HJ**—62 Referred—33; **HJ**—64 Report of committee—52; **HJ**—320 Committee of whole report—55; **HJ**—402 Final Action—55; **HJ**—419 Enrolled—536 Action of Governor—756 **S 9.** State educational institution project delivery

construction procurement act. (Legislative Educational Planning Committee)

Introduced—9; **HJ**—206 Referred—33; **HJ**—224 Report of committee—203; **HJ**—341 Committee of whole report—227; **HJ**—413 Final Action—229; **HJ**—419 Further action of Senate—537 Enrolled—699 Action of Governor—756

S 10. Colleges and universities; fees and tuition; service scholarship programs, allied health care professionals for children with autism. (Legislative Educational Planning Committee)

Introduced—9 Referred—33

S 11. Postsecondary educational institutions; community colleges, acquisition of real property; technical colleges, change in name or designation. (Legislative Educational Planning Committee)

Introduced—9; **HJ**—116 Referred—33; **HJ**—126, 152 Report of committee—95; **HJ**—276 Committee of whole report—110; **HJ**—318 Final Action—110; **HJ**—322 Further action of Senate—402, 591 Further action of House—**HJ**—351, 488 Enrolled—756 Action of Governor—756

S 12. Insurance; coverage for autism. (Legisla-

tive Educational Planning Committee)

Introduced—9 Referred—33, 190, 199

S 13. Restrictions on qualifications for Kansas bi-

oscience authority board members. (Hensley) Introduced—9

Referred-33

S 14. Interstate compact for juveniles; compact administrator; Kansas council for interstate juvenile supervision. (Jt Comm Corrections & Juvenile Justice Oversight)

Introduced—9; HJ—62

Referred—33; **HJ**—64 Report of committee—49; **HJ**—151 Committee of whole report—55; **HJ**—245 Final Action—55; **HJ**—247 Enrolled—285 Action of Governor—327

S 15. Court ordered custody to commissioner of juvenile justice. (Jt Comm Corrections & Juvenile Justice Oversight) Introduced—9

Referred—33

S 16. Pharmacy act; violations; exemptions for donation and distribution of drugs under certain circumstances. (Jt Comm on Administrative Rules and Regulations)

- Introduced—9; **HJ**—148 Referred—33; **HJ**—152 Report of committee—120; **HJ**—292 Committee of whole report—136; **HJ**—325 Final Action—139; **HJ**—353 Enrolled—536 Action of Governor—756
- S 17. Videotaping felony interrogations. (Haley) Introduced—9 Referred—33

 ${\bf S}$ 18. The crime of deprivation of rights under color of law. (Haley)

Introduced—9 Referred—33

S 19. Concealed weapons; U.S. attorneys, attorney general, county and district attorneys and assistants. (Schmidt, D) Introduced—9; **HJ**—62

Referred—33; **HJ**—64 Report of committee—49; **HJ**—291 Committee of whole report—55; **HJ**—318, 325 Final Action—55; **HJ**—353 Further action of Senate—508, 592 Further action of House—**HJ**—438, 488 Enrolled—756 Action of Governor—756

S 20. State aid for school capital improvements ceases for bonds issued after December 31, 2008 through June 30, 2011; state aid resumes on and after July 1, 2011. (Ways and Means) Introduced—32

Referred—38

S 21. School districts; special capital outlay levy

for insurance and utility services. (Ways and Means) Introduced—33

Referred-38

S 22. H Sub for S 22 by Committee on Appropriations — Omnibus appropriation act and omnibus reconciliation spending limit bill for the 2009 regular session. (Ways and Means)

Introduced—33; HJ—351, 687

Referred—38; HJ—366 Report of committee-297; HJ-687 Committee of whole report—349; HJ—687 Final Action-359 S 23. H Sub for Sub S 23 by Committee on Appropriations — Appropriations for FY 2009, FY 2010 and FY 2011 for state agencies, reducing expenditure authorizations. (Ways and Means) Introduced-33; HJ-81, 83 Referred—38; HJ—81 Report of committee-63; HJ-83 Committee of whole report-76; HJ-118 Final Action—93; HJ—127 Further action of Senate—119, 172, 265 Further action of House-HI-133, 156 Enrolled-195 Action of Governor-199 S 24. Kansas insurance score act, repeal of. (Faust-Goudeau, Kelsey, Masterson) Introduced-37 Referred-43 S 25. State-wide prohibition on smoking in indoor public areas. (Public Health and Welfare) Introduced—37; HJ—189 Referred-43; HJ-194 Report of committee-116 Committee of whole report-184 Final Action-191 S 26. Additional months added to sentences for certain drug felonies involving firearms. (Judiciary) Introduced—38; HJ—153 Referred-43; HJ-163 Report of committee-109 Committee of whole report-141 Final Action-141 S 27. Presumption of paternity; genetic testing. (Judiciary) Introduced-38 Referred-43 S 28. Sub for S 28 by Committee on Judiciary — Offenses and conduct giving rise to forfeiture; dog fighting, cockfighting and prostitution. (Judiciary) Introduced—38; **HJ**—203 Referred-43; HJ-205 Report of committee-167; HJ-341 Committee of whole report—197; HJ—407 Final Action—200; HJ—420 Further action of Senate-508, 683 Further action of House-HI-438, 540 Enrolled-756 Action of Governor-756 **S 29.** Board of technical professions; relating to licensure. (Federal and State Affairs) Introduced—38; **HJ**—116

Referred—43; **HJ**—126 Report of committee—95; **HJ**—274

Committee of whole report—109; **HJ**—433 Final Action—110; **HJ**—446 Further action of Senate—564 Enrolled—756 Action of Governor—756 **S 30.** State surplus property; disposition of computers and firearms. (Ways and Means) Introduced—42; **HJ**—79 Referred—46; **HJ**—82 Report of committee—63; **HJ**—320 Committee of whole report—73; **HJ**—407 Final Action—75; **HJ**—420

Further action of Senate—508 Further action of House—**HJ**—438

S 31. House Sub for S 31 by Committee on Aging and Long-term Care — Expanding authority of the state long-term care ombudsman; establishing advisory committee on options within the home. (Public Health and Welfare)

Introduced—42; **HJ**—148, 355 Referred—46; **HJ**—152, 277 Report of committee—120; **HJ**—355 Committee of whole report—136 Final Action—140 Further action of House—**HJ**—449

S 32. Evidence in civil actions; expression of apology by health care providers. (Public Health and Welfare)

Introduced—42 Referred—46, 48

S 33. Board of pharmacy; fingerprinting and criminal history record checks; pharmacy technicians; terms and membership of the board; statewide electronic logging system for the sale of methamphetamine precursors. (Public Health and Welfare)

Introduced—42; HJ—148 Referred—46; HJ—152 Report of committee—121; HJ—345 Committee of whole report—136; HJ—407 Final Action—140; HJ—421 Further action of Senate—508, 872 Further action of House—HJ—438, 612, 724 Enrolled—902 Action of Governor—902 S 34. Continuation of certain exceptions to disclosure under the open records act. (Judiciary) Introduced—43; HJ—79 Performed 46; HJ—89

Referred—46; **HJ**—82 Report of committee—63; **HJ**—280 Committee of whole report—73; **HJ**—301 Final Action—75; **HJ**—305 Further action of Senate—413 Enrolled—536 Action of Governor—756 **S 35.** Municipal bonds and obligations and interest rates thereon, bond revenue sources. (Commerce)

Introduced-43; HJ-116 Referred-46; HJ-126 Report of committee-91; HJ-293 Committee of whole report-109; HJ-410 Final Action—110; HJ—421 Further action of Senate-533, 613 Further action of House-HJ-448, 491 Enrolled-756 Action of Governor-756 S 36. Special assessments in transportation districts. (Commerce) Introduced-43 Referred-46 S 37. Regulating traffic, concerning golf carts. (Lee) Introduced—43; **HJ**—206 Referred—46; HJ—224 Report of committee-211; HJ-281 Committee of whole report-227 Final Action-229 Further action of House-HJ-449 S 38. Hospital districts; formation, Linn county. (Ethics and Elections) Introduced—43; HJ—137 Referred—46; HJ—141 Report of committee—115; HJ—293 Committee of whole report—121; HJ—325 Final Action—121; HJ—353 Enrolled-536 Action of Governor-756 S 39. School districts; investment authority. (Education) Introduced-43; HJ-206 Referred-46; HJ-224 Report of committee-195; HJ-269 Committee of whole report-222; HJ-402 Final Action—229; HJ—421 Further action of Senate—537 Enrolled-699 Action of Governor-756 S 40. At-risk education council; repeal of. (Education) Introduced—43; **HJ**—116 Referred-46; HJ-126 Report of committee-73; HJ-269 Committee of whole report—109 Final Action—111; HJ—284 Enrolled-403 Action of Governor-532

S 41. School districts; computation of state aid when districts enlarge; personal financial literacy and disability history and awareness programs; re-

peal of archaic statutes relating to transfers of funds and property. (Education)

- Introduced—43; **HJ**—116 Referred—46; **HJ**—126 Report of committee—73; **HJ**—308 Committee of whole report—109; **HJ**—407 Final Action—111; **HJ**—422 Further action of Senate—508, 879 Further action of House—**HJ**—439, 542 Enrolled—902 Action of Governor—902
- **S 42.** Elections; ballots; members of the state board of education. (Education)
 - Introduced—43
 - Referred-46
- **S 43.** House Sub for S 43 by Committee on Aging and Long-term Care Adding power of attorney violations to the enumerated acts constituting the crime of mistreatment of a dependent adult. (Education)
 - Introduced—43; **HJ**—116, 355 Referred—46; **HJ**—126, 277, 433 Report of committee—95; **HJ**—355 Committee of whole report—109 Final Action—111

S 44. Civil procedure; Kansas false claims act; rules of evidence, admissibility of prior acts or offenses; habeas corpus, infectious disease. (Judiciary)

Introduced—46; **HJ**—79 Referred—48; **HJ**—82 Report of committee—63; **HJ**—320 Committee of whole report—73; **HJ**—407 Final Action—75; **HJ**—422 Further action of Senate—508, 594 Further action of House—**HJ**—439, 495 Enrolled—756 Action of Governor—756

S 45. Kansas power of attorney act amendments. (Judiciary)

- Introduced—46; HJ—79 Referred—48; HJ—82 Report of committee—63; HJ—320 Committee of whole report—73; HJ—407 Final Action—76; HJ—423 Further action of Senate—508, 575 Further action of House—HJ—439, 478 Enrolled—756 Action of Governor—756 **S 46.** Procedures for sale of certain property by port authorities. (Transportation)
- Introduced—48; **HJ**—203 Referred—52; **HJ**—206 Report of committee—183; **HJ**—258 Committee of whole report—197 Final Action—200; **HJ**—271

Enrolled-328

Action of Governor—482

S 47. Local exchange carriers methods to satisfy carrier of last resort obligation. (Utilities) Introduced—48

Referred-52

S 48. Sub for S 48 by Committee on Utilities — Enhanced wireless and VoIP 911 services amendments, collection and disbursement of certain funds. (Utilities)

Introduced—48; **HJ**—203 Referred—52; **HJ**—205 Report of committee—183 Committee of whole report—215 Final Action—217

S 49. Insurance coverage, mental health, alcoholism, drug abuse or other substance use disorder benefits. (Financial Institutions and Insurance)

Introduced—48; **HJ**—261 Referred—52, 227, 238; **HJ**—263 Report of committee—195, 246 Subsidiary motions—227 Final Action—265

 ${\bf S}$ ${\bf 50.}$ Risk-based capital requirements; establishing a trend test calculation. (Financial Institutions and Insurance)

Introduced—48; **HJ**—116 Referred—52; **HJ**—126 Report of committee—76; **HJ**—264 Subsidiary motions—**HJ**—268 Committee of whole report—109; **HJ**—301 Final Action—111; **HJ**—306 Enrolled—403 Action of Governor—532

S 51. House Sub for S 51 by Committee on Agriculture and Natural Resources — Boundary issues for local governments; annexation; rural water districts. (Natural Resources)

- Introduced—48; HJ—116, 355 Referred—52; HJ—126 Report of committee—95; HJ—355 Committee of whole report—HJ—407 Final Action—109; HJ—423 Further action of Senate—538, 888, 904 Further action of House—HJ—450, 771 Enrolled—902 Action of Governor—902 S 52. Cities; payment for public improvements. (Federal and State Affairs) Introduced—51 Referred—54 S 53. Licensure of cereal malt beverage retailers. (Federal and State Affairs)
 - Introduced—51; **HJ**—203
 - Referred—54; **HJ**—205
 - Report of committee-166; HJ-342

Committee of whole report-212; HJ-433 Final Action-217; HJ-446 Further action of Senate-564 Enrolled-756 Action of Governor-756 **S 54.** Concerning the state capitol and grounds. (Hensley, Faust-Goudeau, Haley) Introduced—51; HJ—299 Referred-54; HJ-304, 638 Report of committee-290; HJ-342 Committee of whole report-311 Final Action-311 S 55. Concerning ballots by uniformed and overseas citizens and federal services voters. (Ways and Means) Introduced—51; **HJ**—164 Referred—54; HJ—165, 442 Report of committee-130; HJ-342 Committee of whole report—169 Final Action—170 S 56. Elections; security of advance voting ballots. (Ways and Means) Introduced—51; **HJ**—164 Referred-54; HJ-165, 442 Report of committee-146; HJ-341 Committee of whole report-169 Final Action-170 S 57. Campaign finance; requiring electronic filing of certain reports. (Ways and Means) Introduced-52 Referred-54 S 58. Sub for S 58 by Committee on Utilities — Kansas underground utility damage prevention act amendments. (Utilities) Introduced—52; HI—206 Referred—54; HJ—224 Report of committee-196 Committee of whole report-229 Final Action-229 S 59. Primary seat belt law, penalty. (Transportation) Introduced—52; **HJ**—206 Referred—54; HJ—224 Report of committee-211 Committee of whole report-227 Final Action-230 **S 60.** Redevelopment districts within a federal enclave; sale of real property. (Transportation) Introduced—52; **HJ**—203 Referred—54; HJ—206 Report of committee-167; HJ-320 Committee of whole report—197; HJ—407 Final Action—200; HJ—424 Further action of Senate-538 Enrolled-699 Action of Governor-756

S 61. Prison-made goods act; additional authorization to contract for certain work projects. (Judiciary)

Introduced—52; **HJ**—153 Referred—54; **HJ**—163 Report of committee—135; **HJ**—311 Committee of whole report—141; **HJ**—406 Final Action—141; **HJ**—424 Enrolled—536 Action of Governor—756

S 62. Department of health and environment; tuberculosis evaluation requirements and prevention and control plan for postsecondary educational institutions; rules and regulations. (Public Health and Welfare)

Introduced—52; **HJ**—164 Referred—54; **HJ**—165 Report of committee—140 Committee of whole report—167 Final Action—170

S 63. Polysomnography practice act; duties of the board of healing arts; creation of the polysomnography professional standard council. (Public Health and Welfare)

Introduced—52

Referred—54

S 64. Water appropriation act amendments. (Eminent Domain in Condemnation of Water Rights)

Introduced—52; **HJ**—203

Referred—54; **HJ**—205

Report of committee—182; **HJ**—286

Committee of whole report—212; HJ—319

Final Action—217; HJ—322

Further action of Senate—416, 507

Further action of House—**HJ**—404 Enrolled—558

Action of Governor—756

S 65. Eminent domain; water rights. (Eminent

Domain in Condemnation of Water Rights)

Introduced—52

Referred-54

S 66. Creating the judicial branch surcharge fund; docket fee increase for prosecuting attorneys' training fund; funding recodification commission; judicial performance commission not required to evaluate retired senior judges; court of appeals, 14th judge; district courts, transmittal of documents. (Judiciary)

Introduced—53; **HJ**—153

Referred—61; **HJ**—163

Report of committee-135; HJ-311

Committee of whole report—141; HJ—407

Final Action—141; HJ—424

Further action of Senate-541, 709

Further action of House-HJ-462, 592

Enrolled-756 Action of Governor-756 S 67. Creating the crime of endangering a dependent adult; amending mistreatment of a dependent adult. (Judiciary) Introduced-53 Referred-61 S 68. Judges and justices, mandatory retirement at 75, may elect to serve to end of current term. (Judiciary) Introduced—53; HJ—164 Referred-61; HJ-165 Report of committee-135; HJ-345 Committee of whole report—167; HJ—432 Final Action—170; **HI**—434 Further action of Senate-533, 617 Further action of House-HJ-448, 522 Enrolled-756 Action of Governor-756 S 69. Crime stoppers advisory council; Kansas crime stopper trust fund. (Judiciary) Introduced—53; **HJ**—206 Referred-61; HJ-224, 322 Report of committee-210 Committee of whole report-227 Final Action-230 S 70. Trusts; unitrust conversion; uniform principal and income act. (Judiciary) Introduced—53; **HJ**—153 Referred-61; HJ-163 Report of committee-135; HJ-280 Committee of whole report—141; HJ—318 Final Action—142; HJ—323 Further action of Senate-413 Enrolled-536 Action of Governor-756 S 71. Question submitted elections; new reporting requirements; prohibiting use of public funds or equipment for advocacy. (Education) Introduced—53; HJ—164 Referred-61; HJ-165 Report of committee-146 Committee of whole report-169 Final Action—171 S 72. Credit unions, member of. (Financial Institutions and Insurance) Introduced—53; HJ—203 Referred—61; HJ—205 Report of committee-167; HJ-310 Committee of whole report-212; HJ-355 Final Action—217; HI—368 Further action of Senate-507 Enrolled-558 Action of Governor-756

S 73. School districts; special local option budget authority for certain school years. (Ways and Means)

Introduced—54; **HJ**—153 Referred—61; **HJ**—163 Report of committee—115 Committee of whole report—141 Final Action—142

S 74. Cash basis law; exceptions when state aid to school districts are not paid when due. (Ways and Means)

Introduced—54; **HJ**—239 Referred—61; **HJ**—244 Report of committee—197 Committee of whole report—241 Final Action—243

 ${\bf S}$ 75. Municipalities; consolidation and reorganization; political and taxing subdivisions. (Federal and State Affairs)

Introduced—54; **HJ**—367 Referred—61; **HJ**—401 Report of committee—317 Committee of whole report—397 Final Action—397

S 76. Cereal malt beverages; alcohol content, regulation by ABC, retailers authorized to sell, taxation. (Federal and State Affairs)

Introduced—54

Referred-61

- **S 77.** State use law committee abolished July 1, 2014. (Commerce)
- Introduced—54; **HJ**—116 Referred—61; **HJ**—126 Report of committee—91; **HJ**—248 Committee of whole report—109 Final Action—111; **HJ**—272 Enrolled—328 Action of Governor—482
- **S 78.** Special assessments in transportation dis-

tricts. (Commerce)

- Introduced—54; **HJ**—137
- Referred—61; **HJ**—141
- Report of committee—115; **HJ**—363
- Committee of whole report—121; **HJ**—406
- Final Action—121; **HJ**—425
- Enrolled—536
- Action of Governor—756
- S 79. Election; changing filing deadlines for can-

didates. (Ethics and Elections)

- Introduced—54; **HJ**—203
- Referred—61; **HJ**—205
- Report of committee—166
- Committee of whole report—212
- Final Action—217

S 80. Certain cities; sale of utility systems; elections; relinquishing authority to regulate natural gas utilities. (Ethics and Elections)

Introduced—54; HJ—137 Referred-61; HJ-141 Report of committee—115; HJ—287 Committee of whole report—121; HJ—318 Final Action—121; HJ—323 Further action of Senate-402, 565 Further action of House-HJ-351 Enrolled-756 Action of Governor-756 S 81. Enacting the Kansas nonsmoker protection act. (Public Health and Welfare) Introduced-54 Referred-61 S 82. Repealing K.S.A. 2008 Supp. 65-1,214. (Public Health and Welfare) Introduced—54; HJ—137 Referred-61; HJ-141 Report of committee—103; HJ—241 Committee of whole report-116 Final Action—119; HJ—251 Enrolled-285 Action of Governor-358 S 83. Autism task force. (Public Health and Welfare) Introduced—54; HJ—203 Referred—61; HJ—205 Report of committee-167 Committee of whole report-212 Final Action—218 **S 84.** School districts; cash basis law, exceptions; LOB, computation in certain years. (Education) Introduced—54; HI—206 Referred—61; HJ—224 Report of committee-209; HJ-269 Committee of whole report-227; HJ-286 Final Action—230; **HJ**—300 Further action of Senate—338, 697, 881 Further action of House-HJ-314, 543, 761 Enrolled-902 Action of Governor-902 S 85. Secretary of state; return of filings. (Judiciary) Introduced—57; HJ—137 Referred—61; HJ—141 Report of committee-115; HJ-292 Committee of whole report—121; HJ—325 Final Action—122; **HJ**—354 Further action of Senate-507 Enrolled-558 Action of Governor-756 S 86. Secretary of state; letters of good standing. (Judiciary) Introduced—57; **HJ**—137

Referred—61; HJ—141 Report of committee-115; HJ-269 Committee of whole report-121 Final Action—122; HJ—284 Enrolled-403 Action of Governor-532 S 87. Agencies; disclosure of certain records; administrative procedure; judicial review. (Judiciary) Introduced—57; HJ—206 Referred—61; HJ—224 Report of committee-196; HJ-320 Committee of whole report-222; HJ-407 Final Action—230; **HI**—425 Further action of Senate-508, 597 Further action of House-HI-439, 498 Enrolled-756 Action of Governor-756 S 88. Children; permanency and priority of orders. (Judiciary) Introduced-57 Referred-61 S 89. Sub for S 89 by Committee on Financial Institutions and Insurance - Open records, certain policy information not required to be open. (Financial Institutions and Insurance) Introduced—57; **HJ**—203 Referred-61; HJ-206 Report of committee-167; HJ-292 Subsidiary motions-HJ-314 Committee of whole report-214 Final Action-218 Further action of House—HJ—449 S 90. Insurance department, electronic filing of certain documents. (Ways and Means) Introduced-58 Referred-67 S 91. H Sub for SB 91 by Committee on Commerce and Labor - Community planning; placement of sexually violent predators; zoning; vesting of development rights. (Local Government) Introduced—58; HJ—153, 274 Referred—67; HJ—163 Report of committee—135; HJ—274 Committee of whole report—141; HJ—432 Final Action—142; HJ—436 Further action of Senate-541, 565 Further action of House-HJ-462 Enrolled-756 Action of Governor-756 S 92. Child in need of care; jurisdiction on CINC proceedings. (Ways and Means) Introduced-59; HJ-401 Referred-67; HJ-415 Report of committee-343 Committee of whole report-417 Final Action-472

S 93. Joint committee on special claims against the state; membership, qualifications, number. (Ways and Means)

Introduced—59; **HJ**—351 Referred—67; **HJ**—367 Report of committee—109 Subsidiary motions—109 Committee of whole report—349 Final Action—359

S 94. Child in need of care; placement of child in custody. (Ways and Means) Introduced—59; HJ—401 Referred—67; HJ—415 Report of committee—346 Committee of whole report—417 Final Action—472
S 95. Hauge Sch for 5.05 by Committee on Ly.

S 95. House Sub for S 95 by Committee on Judiciary — Restricting driving privileges for persons for refusal, failure or high BAC in test to driving with ignition interlock devices. (Ways and Means)

Introduced—66; **HJ**—164, 361 Referred—75; **HJ**—165 Report of committee—146; **HJ**—361 Committee of whole report—170 Final Action—171

S 96. Permanent annual cost-of-living adjustment for members of the retirement system for judges and the Kansas police and firemen's retirement system whose membership date is on or after July 1, 2010. (Jt Comm on Pensions, Investments and Benefits)

Introduced—59

Referred-67

S 97. Prescribing penalties for violations of liquor enforcement tax act by retailers. (Assessment and Taxation)

Introduced—59; **HJ**—148 Referred—67; **HJ**—152 Report of committee—115; **HJ**—301 Committee of whole report—136; **HJ**—325 Final Action—140; **HJ**—354 Further action of Senate—508, 684 Further action of House—**HJ**—439, 547 Enrolled—756 Action of Governor—756

S 98. House Sub for S 98 by Committee on Taxation — Valuation of land devoted to agricultural use under Kansas estate tax act. (Assessment and Taxation)

Introduced—59; **HJ**—164, 393 Referred—67; **HJ**—165 Report of committee—146; **HJ**—393 Committee of whole report—167; **HJ**—410 Final Action—171; **HJ**—426 Further action of Senate—508, 618 Further action of House—**HJ**—439, 523 Enrolled-756

Action of Governor-756

S 99. Election in Lyon county to increase retailers' sales tax declared valid, and tax imposed. (Assessment and Taxation)

Introduced-59

Referred-67

S 100. Sales tax exemption for fees for guided and non-guided hunts and fishing expeditions and sale of game birds for hunting. (Assessment and Taxation)

Introduced—59 Referred—67 Report of committee—115

S 101. Tanning facilities; regulating minors' use of tanning device. (Public Health and Welfare)

Introduced—59 Referred—67

S 102. Emergency medical services; use of automated external defibrillator. (Public Health and Welfare)

Introduced—59; **HJ**—137

- Referred—67; **HJ**—141
- Report of committee-109; HJ-241

Committee of whole report—116; HJ—248

Final Action—120; HJ—253

Further action of Senate-283, 708

Further action of House-HJ-267

Enrolled—756 Action of Governor—756

Action of Governor—756

- S 103. Elections; certain local units of govern-
- ment; primaries. (Ethics and Elections) Introduced—59; **HJ**—203 Referred—67; **HJ**—205 Report of committee—166 Committee of whole report—212 Final Action—218

S 104. Insurance reimbursement for certain

services. (Financial Institutions and Insurance) Introduced—59 Referred—67

S 105. Enacting the public adjusters licensing

act. (Financial Institutions and Insurance) Introduced—59; **HJ**—206 Referred—67; **HJ**—224 Report of committee—210; **HJ**—361 Committee of whole report—227; **HJ**—406 Final Action—230 Further action of House—**HJ**—449

S 106. Cigarette lighters; unlawful to sell to minors; displays must be secure. (Federal and State Affairs)

Introduced—59 Referred—67

S 107. Bingo games; increasing the prize limits, time and location for conducting games. (Federal and State Affairs)

Introduced—59 Referred—67 Report of committee—210 Committee of whole report—241 Final Action—243

S 108. Authorizing bonds for certain economic development projects; wind energy. (Ways and Means)

Introduced—66; **HJ**—261 Referred—75; **HJ**—263 Report of committee—257; **HJ**—341 Committee of whole report—268; **HJ**—402 Final Action—278; **HJ**—426 Enrolled—536 Action of Governor—756

S 109. Amending the grandparents as caregivers act. (Ways and Means)

Introduced—66 Referred—75

S 110. Competency proceedings for criminal defendants; examination of the defendant. (Ways and Means)

Introduced—66

Referred-75

S 111. Political subdivision budget expenditures from revenues provided by property tax levies; providing limitations thereon. (Assessment and Taxation)

Introduced—66 Referred—75

S 112. Kansas act against discrimination amendments regarding disability. (Judiciary)

Introduced—66

Referred—75, 190, 199

S 113. Legislature; reducing size of Senate, House. (Steineger)

Introduced—66 Referred—75

S 114. Zoning; group homes; certain restrictions. (Federal and State Affairs)

Introduced-66

Referred-75, 199

S 115. Fire departments, temporarily closing highways. (Federal and State Affairs)

Introduced—66; **HJ**—239 Referred—75; **HJ**—244 Report of committee—210; **HJ**—294 Committee of whole report—241 Final Action—243; **HJ**—314 Enrolled—403 Action of Governor—532

S 116. Private detectives; permit to carry a concealed firearm. (Federal and State Affairs)

919 Introduced-66 Referred-75 S 117. Sub for S 117 by Committee on Ethics and Elections - Campaign finance; corrupt political advertising; website, e-mail; other internet communication. (Ethics and Elections) Introduced—66; **HJ**—203 Referred—75; HJ—205 Report of committee-166 Committee of whole report-214 Final Action-218 S 118. Campaign finance; state-wide offices; electronic filing required. (Ethics and Elections) Introduced—66; **HJ**—164 Referred—75; HJ—165, 304 Report of committee-146 Committee of whole report-167 Final Action-171 S 119. Enacting the community improvement district act. (Commerce) Introduced—66; **HJ**—203 Referred—75; HJ—205 Report of committee—166; HJ—341 Committee of whole report-213; HJ-406 Final Action-218 Further action of House-HJ-449 S 120. Kansas investments in major products and comprehensive training act. (Commerce) Introduced—66; **HJ**—206 Referred—75; HJ—224 Report of committee-203; HJ-308 Committee of whole report-227; HJ-402 Final Action—231; **HJ**—426 Enrolled—536 Action of Governor-756 S 121. Health care; reform in funding and structure of the federal and state programs. (Public Health and Welfare) Introduced-66 Referred-75 S 122. Rebuilt salvage vehicles, reduction of classification, taxation. (Transportation) Introduced—66; **HJ**—203 Referred—75; HJ—206 Report of committee-167; HJ-276 Subsidiary motions-HJ-284 Committee of whole report—197; HJ—307 Final Action—201; HJ—317 Enrolled-403 Action of Governor-532 S 123. Antique vehicles; city issued license plates. (Transportation) Introduced—66; **HJ**—189 Referred—75; **HJ**—194 Report of committee-167; HJ-276 Subsidiary motions-HJ-299

Committee of whole report-HJ-307 Final Action—190; HJ-317 Enrolled-403 Action of Governor-532

S 124. Affiliation with Kansas police and firemen's retirement system (KP&F) by the Kansas department of wildlife and parks for membership of certain officers and employees. (Transportation)

Introduced-66

Referred-75

S 125. Grandparents as caregivers act; eligibility,

legal guardianship not required. (Faust-Goudeau) Introduced-66

Referred-75

S 126. House Sub for S 126 by Committee on Insurance — Controlled insurance program act.

(Financial Institutions and Insurance) Introduced—66; HJ—164, 361 Referred—75; HJ—165, 440 Report of committee-140; HJ-361 Committee of whole report-167 Final Action-171

S 127. Distribution of revenue from tax on alcoholic liquor. (Assessment and Taxation) Introduced-66

Referred-75

S 128. Fatherhood initiative program; implemented by the department of social and rehabilitative services. (Faust-Goudeau)

Introduced-67

Referred-75

S 129. State medicaid program; county jail inmates; changes. (Local Government)

Introduced-67 Referred-75, 91

S 130. Schools; school terms, holidays and inservice training. (Education)

Introduced-75

Referred-93

S 131. Technical colleges; change in name or designation; early high school graduation incentive programs. (Education)

Introduced—75; HJ—148 Referred—93; HJ—152 Report of committee-115; HJ-280 Subsidiary motions-HJ-299 Committee of whole report—136; HJ—307 Final Action—140; HJ—318 Further action of Senate—402 Further action of House-HJ-351 S 132. Enacting business entity transaction act. (Judiciary)

Introduced—75; HJ—137

Referred—93; HJ—141

Report of committee-116; HJ-254

Committee of whole report—121; HJ—318

Final Action-122; HJ-324 Further action of Senate-414 Enrolled-536 Action of Governor-756

S 133. Ticket surcharge of \$1 to fund the Kansas sports hall of fame; designated college and high school athletic events. (Ways and Means)

Introduced-75 Referred-93

S 134. Court fees and costs; authorizing supreme court to establish additional charges for court procedures. (Judiciary)

Introduced—90; HJ—203 Referred—93; HJ—206 Report of committee-135; HJ-345 Committee of whole report-214; HJ-407 Final Action—219; HJ—427 Further action of Senate-508, 621 Further action of House-HJ-439, 526 Enrolled-756 Action of Governor-756

S 135. Kansas open meetings act; interactive communications constituting open meetings. (Judiciary)

Introduced—90; HJ—189 Referred—93; HJ—194 Report of committee—146; HJ—345 Committee of whole report-HJ-406 Final Action—190; HJ—427 Enrolled-536 Action of Governor-756

S 136. Patient protection act, prohibited provisions in agreement. (Financial Institutions and Insurance)

Introduced-90

Referred-93, 190, 199

S 137. Viatical act; exemption for acts and orders of securities commissioner. (Financial Institutions and Insurance)

Introduced—90; HJ—189 Referred—93; HJ—194 Report of committee-140; HJ-276 Final Action—190; HJ—299 Enrolled-403 Action of Governor-532

S 138. STAR bond financing. (Commerce) Introduced—90; **HJ**—203 Referred—93; HJ—206 Report of committee-166 Committee of whole report-214 Final Action-219

S 139. Insurance, deposits and securities, Federal home loan bank. (Financial Institutions and Insurance)

Introduced—90; HJ—189 Referred—93; HI—194

Report of committee—146; **HJ**—310 Final Action—191

Further action of House—HJ—449

S 140. Senior citizen property tax deferral act. (Assessment and Taxation)

Introduced—92

Referred-97

S 141. Inspector general within Kansas health policy authority transferred to division of post audit. (Judiciary)

Introduced—92

Referred-97, 101

S 142. Establishing the safety corridor act administered by the secretary of transportation, safety corridor fund. (Transportation)

Introduced—92 Referred—97 Report of committee—196 Committee of whole report—222 Final Action—231

S 143. The Kansas immigration accountability act. (Federal and State Affairs) Introduced—92

Referred—97

S 144. Subdivisions; blanket easements, void; exceptions. (Federal and State Affairs)

Introduced—92

Referred—97

S 145. House Sub for S 145 by Committee on Transportation — Regulating traffic; special permits; driving in the right lane. (Federal and State Affairs)

Introduced—93; **HJ**—203, 294 Referred—97; **HJ**—206 Report of committee—167; **HJ**—294 Committee of whole report—197; **HJ**—319 Final Action—201; **HJ**—324 Further action of Senate—402, 631 Further action of House—**HJ**—351, 536 Enrolled—756 Action of Governor—756

S 146. Kansas public employees retirement system; computation of benefits when rate of computation is reduced or placed on furlough; removing sunset provision. (Ways and Means)

Introduced—93; **HJ**—401 Referred—97; **HJ**—415 Report of committee—334 Committee of whole report—414 Final Action—472

S 147. Department of health and environment; HIV screening for pregnant women and newborn children; rules and regulations. (Public Health and Welfare)

Introduced—93; **HJ**—261 Referred—97, 198, 226; **HJ**—263

Report of committee-246; HJ-345 Committee of whole report-268 Final Action-278 **S** 148. Kansas silver alert plan. (Judiciary) Introduced-93; HI-203 Referred—97; HJ—205 Report of committee-182; HJ-286 Committee of whole report-197 Final Action—201; HJ—315 Enrolled-403 Action of Governor-532 S 149. School districts; supplemental general state aid for certain districts. (Education) Introduced—93 Referred—97, 226, 235 S 150. Postsecondary education; KPERS eligible educational program act. (Abrams) Introduced-96 Referred-101 S 151. Medicaid; charitable donations by certain persons. (Ways and Means) Introduced-96 Referred-101 S 152. Regulation of certain motor carriers by the corporation commission. (Transportation) Introduced—98; HI—206 Referred-108; HJ-224 Report of committee-211 Committee of whole report-227 Final Action-231 **S** 153. Regulation of certain motor vehicles and motor carriers by the corporation commission. (Transportation) Introduced-98; HJ-261 Referred—108, 226, 236; HJ—263 Report of committee-255 Committee of whole report-268 Final Action-278 S 154. Enforcement of tobacco settlement. (Judiciary) Introduced—99; HJ—206 Referred—108; HJ—224 Report of committee-196; HJ-361 Committee of whole report-227; HJ-410

Final Action—231; HJ—428

Further action of Senate-508, 597

Further action of House—HJ—439, 499 Enrolled—756

Action of Governor—756

S 155. Center for health and environmental statistics employees; fingerprinting, criminal history record checks. (Judiciary)

Introduced—99 Referred—108

S 156. Close corporations; increasing the limit on the number of stockholders in a close corporation. (Judiciary)

Introduced—99; **HJ**—189 Referred—108; **HJ**—194 Report of committee—146; **HJ**—292 Final Action—191; **HJ**—315 Enrolled—403 Action of Governor—532

S 157. Driver improvement clinics, fees, disposition thereof; correctional services special revenue fund. (Judiciary) Introduced—99

Referred—108, 190, 199

S 158. Allowing offenders in violation of a traffic citation to be issued a restricted driver's license. (Judiciary)

Introduced—99; **HJ**—203 Referred—108; **HJ**—206 Report of committee—182; **HJ**—362 Committee of whole report—214; **HJ**—407 Final Action—220; **HJ**—428 Further action of Senate—508, 697 Further action of Senate—508, 697 Further action of Governor—**HJ**—442 Enrolled—756 Action of Governor—756

S 159. Enforcement of tobacco settlement. (Judiciary)

Introduced—99; **HJ**—203 Referred—108; **HJ**—206 Report of committee—182; **HJ**—292 Committee of whole report—212; **HJ**—432 Final Action—220 Further action of House—**HJ**—449

S 160. Kansas minimum wage law; minimum wage increase. (Francisco, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kultala, Reitz, Steineger, Wysong)

Introduced—99; HJ—206 Referred—108; HJ—224 Report of committee-203; HJ-341 Committee of whole report-223; HJ-432 Final Action—231; **HJ**—435 Further action of Senate-533, 751 Further action of House-HJ-448, 573 Enrolled-756 Action of Governor-756 S 161. Recreation commissions; petty cash funds. (Education) Introduced—99; HJ—164 Referred-108; HJ-165 Report of committee—130; HJ—269 Committee of whole report-HJ-301 Final Action—162; **HJ**—306 Further action of Senate-358, 689 Further action of House-HJ-351, 552

Enrolled-756 Action of Governor-756 162. H Sub for SB 162 by Committee on Ed-S ucation - School districts; disability history and awareness. (Education) Introduced—99; HJ—206, 276 Referred—108; HJ—224 Report of committee-195; HJ-276 Committee of whole report-227 Final Action-232 Further action of House-HJ-449 S 163. Consumer protection, mortgage trigger lead. (Financial Institutions and Insurance) Introduced—99; HJ—206 Referred—108; HJ—224 Report of committee-196; HJ-280 Committee of whole report-227; HJ-355 Final Action—232; HI—369 Further action of Senate-507 Enrolled-558 Action of Governor-756 S 164. Municipalities; legal notices; web sites alternative. (Wavs and Means) Introduced-99 Referred-108 S 165. State water plan fund increases. (Ways and Means) Introduced-99 Referred-108 S 166. Medicaid; repealing statute prohibiting prior authorization for certain mental illness medications. (Ways and Means) Introduced-99 Referred-108 S 167. Hospitals; increasing the enforceable limit of a hospital lien. (Ways and Means) Introduced-99 Referred-108 S 168. H Sub for S 168 by Committee on General Government Budget - State agencies, amounts budgeted and appropriated for salaries and wages, priority of payroll obligations. (Ways and Means) Introduced—99; HJ—203, 344 Referred-108; HJ-206, 271 Report of committee—166; HJ—344 Committee of whole report—197; HJ—406 Final Action—201; HJ—428 Further action of Senate-509, 815, 885 Further action of House-HJ-439, 765 Enrolled-902 Action of Governor-902 S 169. Kansas Act Against Discrimination, inclu-

sion of sexual orientation and gender identity (Federal and State Affairs)

Introduced-99

Referred-108, 413 Report of committee-362 S 170. Interpreters data bank. (Public Health and Welfare) Introduced-99 Referred-108 **S 171.** Elections, advance voting ballot security; candidate filing deadlines; ballots for military and overseas voters; electronic mail ballots, when allowed. (Ostmever) Introduced—99; **HJ**—203 Referred—108; HJ—205 Report of committee-166; HJ-287 Committee of whole report—197; HJ—319 Final Action—201; **HJ**—324 Further action of Senate—402, 611, 754, 824, 904Further action of House—**HJ**—352, 516, 573, 701Enrolled-902 Action of Governor-903 S 172. Kansas insurance score act, prohibited acts. (Ways and Means) Introduced-99 Referred-108 S 173. State health care benefits program; certain retired officers and employees. (Ways and Means) Introduced—99; **HJ**—203 Referred—108; HJ—205 Report of committee-183 Committee of whole report-212 Final Action—220 S 174. Removal of mandatory participation requirements for group life insurance. (Ways and Means) Introduced—100; HJ—261 Referred-108, 190, 199; HJ-263 Report of committee-246 Committee of whole report-268 Final Action-278 S 175. School districts; transfer of moneys to community foundations. (McGinn) Introduced—100; HJ—206 Referred—108; HJ—224 Report of committee-209; HJ-310 Committee of whole report-227 Final Action—232; HJ—352 Enrolled-536 Action of Governor-756 S 176. State board of regents; elected. (Pilcher-Cook) Introduced—104 Referred-119 S 177. Income tax credit for certain adoption expenses. (Assessment and Taxation)

Introduced-105 Referred-119, 198, 226 S 178. Exceptions from amusement ride operation requirements for home owned amusement rides. (Federal and State Affairs) Introduced—105; HJ—239 Referred—119; HJ—244, 267 Report of committee-210; HJ-301 Committee of whole report—241; HJ—355 Final Action—243; HJ—369 Further action of Senate-507 Enrolled-558 Action of Governor-756 S 179. Racial profiling; definition thereof, required policies by law enforcement agencies; investigation of complaints. (Federal and State Affairs) Introduced-105 Referred-119 Report of committee-317 S 180. Prohibiting self-service tobacco sales. (Public Health and Welfare) Introduced-105 Referred—119 S 181. Insurance, mental health parity. (Public Health and Welfare) Introduced-105 Referred-119 S 182. Air quality, urban counties, diesel emissions. (Natural Resources) Introduced-105 Referred-119, 190, 199 S 183. Solid waste management plans. (Natural Resources) Introduced—105; HJ—203 Referred-119; HJ-205 Report of committee-182; HJ-320 Subsidiary motions-HJ-367 Committee of whole report-212 Final Action-220 Further action of House-HI-449 S 184. Sub for S 184 by Committee on Natural Resources - Surface owner notification. (Natural Resources) Introduced—105; HJ—442 Referred—119, 190, 199; HJ—450 Report of committee-414; HJ-517 Committee of whole report-487, 506 Final Action-526 S 185. Water rights, nonuse, due and sufficient cause. (Agriculture) Introduced-105 Referred—119, 198, 226 S 186. Vacancy in office of lieutenant governor; notice of resignation from office of governor or lieutenant governor. (Pyle) Introduced-105

Referred-119, 226, 235

 ${\bf S}$ 187. State fire marshal commissioned inspector act; state educational institutions. (Ways and Means)

Introduced—105; **HJ**—203 Referred—119; **HJ**—205 Report of committee—146; **HJ**—258 Committee of whole report—197 Final Action—202; **HJ**—272 Enrolled—328 Action of Governor—482

S 188. Wage garnishment; providing definition of "immediate family"; explaining required affidavit in the event of sickness preventing work. (Ways and Means)

Introduced—105 Referred—119

S 189. Creating an outfitter license. (Natural Resources)

Introduced—105 Referred—119

S 190. Elections; include electronic and direct read electronic voting machines in voting machine fraud statute. (Haley)

Introduced-105

Referred-119

S 191. Elections; paper verification for electronic voting machines. (Haley, Faust-Goudeau) Introduced—105

Referred—119

S 192. Income tax credit for certain taxpayers on motor-fuel taxes paid. (Pyle)

Introduced—105 Referred—119

S 193. Vacancy in office of United States senator; procedure. (Pyle)

Introduced—112

- Referred—119, 226, 235
- **S 194.** Schools; at-risk weighting; age-limitation; FTE computation. (Legislative Post Audit Committee)

Introduced—112 Referred—119

S 195. Providing insurance coverage for orally administered anticancer medications. (Wagle)

Introduced—112

Referred—119, 190, 199

S 196. KPERS employment after retirement restrictions to apply to retirants employed by a thirdparty entity. (Jt Comm on Pensions, Investments and Benefits)

Introduced—112 Referred—119, 300 Report of committee—268 **S 197.** Property taxation; 2% limit on valuation increases. (Pilcher-Cook, Brownlee, Huelskamp, Masterson, Petersen, Wagle)

Introduced—112

Referred-119

S 198. Counties; consolidation commission; re-

duce number of counties. (Steineger) Introduced—113

Referred—119, 226, 235

S 199. Requiring state agencies to use moneys appropriated for employees salaries on state employee salaries. (Hensley)

Introduced—113

Referred-119

S 200. Board of healing arts; regulations of allied health care professionals. (Public Health and Welfare)

Introduced—113; **HJ**—203 Referred—119; **HJ**—205 Report of committee—183 Committee of whole report—212 Final Action—220

S 201. Display of U.S. flag at half-staff for veterans killed. (Haley, Apple, Barnett, Bruce, Faust-Goudeau, Hensley, Holland, Kelly, Kelsey, Marshall, Masterson, Petersen, Schmidt, D, Schodorf)

- Introduced—113; **HJ**—401
- Referred—119; **HJ**—415
- Report of committee—343
- Committee of whole report—414
- Final Action—473

S 202. Abortion; late term abortion; records; reporting. (Taddiken)

Introduced—113

Referred—119

S 203. Secretary of agriculture, food safety and lodging program changes. (Agriculture)

Introduced—113; **HJ**—206

- Referred—119; **HJ**—224
- Report of committee—195; HJ—320
- Committee of whole report—227; HJ—402
- Final Action—232; HJ—429
- Enrolled—536
- Action of Governor—756
- **S 204.** Cities; annexation procedures. (Agriculture)
 - Introduced—113; **HJ**—284 Referred—119; **HJ**—298; **SJ**—537 Report of committee—285; **HJ**—355 Committee of whole report—297; **HJ**—432 Final Action—300; **HJ**—447

S 205. House Sub for S 205 by Committee on Appropriations — Omnibus appropriation act and omnibus reconciliation spending limit bill for the 2009 regular session. (Ways and Means)

Introduced—113; HI—367, 706 Referred—119; HJ—401 Report of committee-335; HJ-706 Committee of whole report-397 Final Action-397 S 206. Kansas insurance score act, defining personal insurance. (Faust-Goudeau, Kelsey, Masterson) Introduced-113 Referred-119 S 207. Appropriations for FY 2010 through FY 2014, home and community based services under DD, PD, FE, TBI and autism medicaid waivers and Tiny-K programs. (Ways and Means) Introduced-113 Referred-119 S 208. Abolishing the death penalty. (Ways and Means) Introduced-113 Referred-119, 335 Report of committee-268 S 209. Teachers; nontraditional licensure. (Kelsey) Introduced-113 Referred-119 S 210. Counties; election commissioners; elected. (Hensley, Kultala) Introduced-113 Referred-119 S 211. Providing journalists with privilege concerning the disclosure of certain information. (Schmidt, D, Hensley)

Introduced—113

Referred—119

S 212. Wine shipments; licensure; wine sales, farmers' market; consumption of alcoholic liquor at public events; other. (Federal and State Affairs)

Introduced—113; **HJ**—277 Referred—119; **HJ**—284 Report of committee—268; **HJ**—358 Committee of whole report—291; **HJ**—432 Final Action—294; **HJ**—447 Further action of Senate—541, 690 Further action of House—**HJ**—462, 553 Enrolled—756 Action of Governor—756

S 213. Consumption of alcoholic liquor in public. (Federal and State Affairs) Introduced—113; HJ—277

Referred—119; **HJ**—284 Report of committee—268 Committee of whole report—291 Final Action—294

S 214. Sub for S 214 by Committee on Natural Resources — Allowing schools to receive grants to purchase recycled products. (Natural Resources)

Introduced—113; **HJ**—322 Referred—119, 190, 199; **HJ**—350 Report of committee—310 Committee of whole report—338 Final Action—340

S 215. Non-gubernatorial appointments subject to confirmation; procedure. (Federal and State Affairs)

Introduced—118; **HJ**—239 Referred—124; **HJ**—244, 322 Report of committee—210 Committee of whole report—241 Final Action—244 **S 216.** Revision of Kansas cigarette and tobacco

products act. (Judicary)

Introduced—118 Referred—124

S 217. Retail electric suppliers act, state educational institutions authorized to enter into certain energy generation agreements (Utilities)

energy generation agreements. (Utilities) Introduced—118

Referred-124, 190, 199

S 218. House Sub for S 218 by Committee on Federal and State Affairs — Amendments to late term and partial birth abortion laws. (Agriculture) Introduced—118; HJ—322, 485 Referred—124; HJ—350

Report of committee—318; **HJ**—485 Committee of whole report—338; **HJ**—519

Final Action—341; **HJ**—572

Further action of Senate-753, 854

Enrolled—756

Action of Governor—756 S 219. Moratorium on employer contributions for death and disability benefits under KPERS.

(Ways and Means) Introduced—118; **HJ**—203

Referred—125; **HJ**—206

Report of committee-167; HJ-237

Committee of whole report—197; **HJ**—245, 248

Final Action—202; **HJ**—253

Enrolled—285

Action of Governor—327

S 220. Sub for S 220 by Committee on Public Health and Welfare — Emergency medical services; authority of the board of emergency medical services. (Ways and Means)

Introduced—118; **HJ**—401 Referred—124, 198, 226; **HJ**—415

- Report of committee—348
- Committee of whole report—418

Final Action—473

S 221. Duties of emergency medical services board. (Ways and Means)

Introduced-118

HISTORY OF BILLS

Referred-125 S 222. Emergency medical services, criminal history record checks. (Ways and Means) Introduced-118 Referred-124, 139 S 223. Emergency medical services board, authority to issue subpoenas. (Ways and Means) Introduced—118; HJ—277 Referred-124, 139; HJ-284 Report of committee-260 Committee of whole report-291 Final Action-294 S 224. Emergency medical services board authorized to assess civil fines. (Ways and Means) Introduced—118; HJ—299 Referred-124, 139; HJ-304 Report of committee-290 Committee of whole report-311 Final Action-312 S 225. Low-income family postsecondary savings accounts incentive program. (Ways and Means) Introduced—118; **ĤJ**—239 Referred-124; HJ-244, 351 Report of committee-210; HJ-403 Committee of whole report-241; HJ-433 Final Action—244; HJ—447 Further action of Senate-542, 607 Further action of House-HJ-462, 509 Enrolled-756 Action of Governor-756 S 226. Taxpayer transparency act; amended to include state and federal funds passed through to counties, cities of first class and school districts and to include each legislator's vote on a given bill during legislative session. (Ways and Means) Introduced-118 Referred-125 S 227. Creating the Kansas tourism corporation. (Ways and Means) Introduced-118

Referred—124

S 228. Providing a property tax exemption for certain leased vehicles. (Assessment and Taxation) Introduced—118; HJ—206 Referred—124; HJ—224 Report of committee—195; HJ—311 Committee of whole report—227; HJ—355 Final Action—233; HJ—369 Enrolled—536 Action of Governor—756

S 229. Misclassification of employees. (Federal and State Affairs) Introduced—118

Referred—124

S 230. Creating the department of financial institutions and abolishing the office of the state bank

commissioner and the office of the securities commissioner. (Legislative Post Audit Committee)

Introduced—123

Referred—127, 139

S 231. Transferring the powers and duties of the animal health department and state conservation commission to the department of agriculture. (Leg-islative Post Audit Committee)

Introduced—123

Referred—127, 180

S 232. Civil liability for worthless checks, defi-

nition of giving a worthless check. (Judiciary) Introduced—124

Referred-127

S 233. Adoption, relinquishment and consent. (Judiciary)

Introduced—124 Referred—127, 190, 199

S 234. Civil procedure; garnishment. (Judiciary)

Introduced—124 Referred—127, 190, 199

S 235. Uniform adult guardianship and protec-

tive proceedings jurisdiction act. (Judiciary) Introduced—124

Referred—127

S 236. Interest on judgments. (Judiciary) Introduced—124 Referred—127, 190, 199

S 237. Crimes, punishment and criminal procedure; trafficking in contraband in a correctional institution or treatment care facility; scrap metal, regulation of selling and buying. (Judiciary)

Introduced—124; HJ—206 Referred—127; HJ—224 Report of committee—210; HJ—362 Committee of whole report—227; HJ—410 Final Action—233; HJ—429 Further action of Senate—509, 565 Further action of House—HJ—439 Enrolled—756 Action of Governor—756

S 238. H Sub for S 238 by committee on federal and state affairs — Amendments to woman's right-to-know act. (Judiciary)

Introduced—124; **HJ**—206, 241 Referred—127; **HJ**—224 Report of committee—211; **HJ**—241 Committee of whole report—227; **HJ**—248 Final Action—233; **HJ**—254 Further action of Senate—283, 337 Further action of House—**HJ**—267 Enrolled—403 Action of Governor—532

S 239. Enacting the rural risk bank loan guarantee loan program. (Financial Institutions and Insurance)

(HJ Nos. refer to 2009 House Journal)

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Introduced-124 Referred-127 S 240. Mortgages, the regulation of. (Financial Institutions and Insurance) Introduced—124; HJ—206 Referred—127; HJ—224 Report of committee-210; HJ-280 Committee of whole report-227; HJ-301 Final Action-234; HJ-306 Enrolled-403 Action of Governor-532 **S 241.** Regulating distressed property consulting services. (Financial Institutions and Insurance) Introduced—124; **HJ**—299 Referred-127, 198, 226; HJ-304 Report of committee-290 Committee of whole report-311 Final Action-312 S 242. Computation of amount of personal property tax on motor vehicles. (Assessment and Taxation) Introduced-124 Referred-127, 198, 226 Report of committee-404 Committee of whole report-484 Final Action-487 S 243. Benefits for disabled veterans. (Assessment and Taxation) Introduced-124 Referred-127, 198, 226 S 244. Eligible businesses under the economic revitalization and reinvestment act. (Assessment and Taxation) Introduced-124 Referred-127, 198, 226 S 245. Allowing publication of a summary of a city ordinance. (Federal and State Affairs) Introduced-126 Referred-139 **S 246.** Allowing the issuance of a special permit to conduct tastings of alcoholic beverages. (Federal and State Affairs) Introduced-127 Referred-139 S 247. Authorizing requests by local governing bodies for hearings by director to revoke or suspend a club or drinking establishment license. (Federal and State Affairs) Introduced—127; HJ—351 Referred—139; HJ—367 Report of committee-317 Committee of whole report-349 Final Action-359 S 248. Electronic logging system for sale of methamphetamine precursor. (Ways and Means) Introduced—127; **HJ**—299

Referred—139; HJ—304 Report of committee-296; HJ-341 Committee of whole report-311 Final Action-312 S 249. Pharmacists; dispensing substitution of drug product. (Ways and Means) Introduced—127; HJ—203 Referred—139; HJ—205 Report of committee-167 Committee of whole report-214 Final Action-221 S 250. Workers compensation; increase in benefits. (Wavs and Means) Introduced-127 Referred-138 S 251. Workers compensation; bilateral scheduled injuries under permanent partial disability. (Ways and Means) Introduced—127 Referred-138 S 252. Criminal offenders in custody, health care costs; department of corrections and juvenile justice authority. (Ways and Means) Introduced-127 Referred-139 S 253. Zoning amendments; protest petitions; mining operations; extraordinary vote not required. (Ways and Means) Introduced—127; HI—261 Referred—139; HJ—263 Report of committee-254; HJ-356 Committee of whole report-268; HJ-407 Final Action—278; HI—430 Further action of Senate-509, 538 Further action of House-HJ-439 Enrolled-699 Action of Governor-756 S 254. House Sub for S 254 by Committee on Agriculture and Natural Resources - Cities; restrictions on annexation. (Ways and Means) Introduced—127; **HJ**—284, 358 Referred-139; HJ-298, 320 Report of committee-268; HJ-358 Committee of whole report—297; HJ—432 Final Action—300; HJ—448 Further action of Senate-538 Further action of House-HJ-451 S 255. Continuation of statewide levy for public schools and exemption therefrom for residential property. (Ways and Means) Introduced—127; HJ—367 Referred-138, 198, 226; HJ-401 Report of committee-338 Committee of whole report-397 Final Action-397

S 256. Creating the pesticide safety education fee fund. (Federal and State Affairs) Introduced—139 Referred-144 S 257. House Sub for S 257 by Committee on Local Government - Cities; public improvements outside cities. (Federal and State Affairs) Introduced—139; HJ—284, 403 Referred—144; HJ—298 Report of committee-257; HJ-403 Committee of whole report-297; HJ-485 Final Action—300; HJ—521 Further action of Senate-697, 699 Further action of House-HJ-570 Enrolled-756 Action of Governor-756 S 258. Workers compensation act, to increase the caps on benefits. (Ways and Means) Introduced—139 Referred-144 S 259. State and school employer contributions to the Kansas public employees retirement system. (Ways and Means) Introduced—143 Referred—148 S 260. No cause of action for recovery of certain loss while operating uninsured motor vehicle. (Ways and Means) Introduced—143; HI—299 Referred—148; HJ—304 Report of committee-268 Committee of whole report-311 Final Action-312 S 261. Interstate compact on the agreement among the states to elect the president by national popular vote act. (Ways and Means) Introduced-143 Referred-148 S 262. Emergency medical services attendants scope of practice and titles. (Ways and Means) Introduced—143; **HJ**—277 Referred-148; HI-284 Report of committee-260 Committee of whole report-291 Final Action-294 S 263. Insurance; mandatory reinstatement of certain insurance policies in case of mental incapacity of an insured. (Federal and State Affairs) Introduced—143 Referred-148 S 264. Amending date by which amount of ad valorem tax to be levied is certified to county clerk. (Ways and Means)

Introduced—147 Referred—177 S 265. Energy conservation and electric generation, transmission and efficiency and air emissions. (Ways and Means) Introduced-148 Referred-177 S 266. Community colleges; tax levies for operation and maintenance. (Ways and Means) Introduced-148 Referred-177 S 267. Elections; voters; voter identification changes. (Ways and Means) Introduced-148 Referred—177, 762 Report of committee-329 **S 268.** Elections; military personnel; voting by electronic mail. (Federal and State Affairs) Introduced-148; HJ-401 Referred-177; HJ-415 Report of committee-329 Committee of whole report-414 Final Action-473 S 269. Conduct and offenses giving rise to forfeiture; adding prostitution and related offenses. (Federal and State Affairs) Introduced—148; **HJ**—367 Referred—177; HI—401 Report of committee-338 Committee of whole report-397 Final Action-398 S 270. Individual district options to consolidate community corrections and court services. (Federal and State Affairs) Introduced-148 Referred-177 S 271. Counties; certain contracts; bidding threshold increased. (Federal and State Affairs) Introduced-148 Referred-177 S 272. Incompetent to stand trial; commitment, release procedures. (Federal and State Affairs) Introduced—148 Referred-177 S 273. Kansas expanded lottery act; electronic gaming machine income distribution, election to allow electronic gaming machines in Sedgwick county. (Federal and State Affairs) Introduced-148 Referred-177 S 274. Enacting Kansas scenic and heritage backroads act. (Ways and Means) Introduced—148; HJ—367 Referred-177; HJ-401 Report of committee-330 Committee of whole report-397 Final Action-398

S 275. Implements of husbandry, exempt from certificates of title. (Federal and State Affairs)

Introduced—177; **HJ**—261 Referred—179; **HJ**—263 Report of committee—241; **HJ**—343 Committee of whole report—**HJ**—410 Final Action—265; **HJ**—430 Further action of Senate—509, 565 Further action of House—**HJ**—439 Enrolled—756 Action of Governor—756

S 276. Providing for separate United States army, navy, air force, marine corps and coast guard or merchant marine license plates. (Ways and Means)

Introduced—179 Referred—189

S 277. Funding the recodification commission from judicial council funds; judicial performance commission not required to evaluate retired senior judges. (Ways and Means)

Introduced—189

Referred—198

S 278. Sub for S 278 by Committee on Judiciary — Creating the Kansas DUI commission; correctional services special revenue fund; driver improvement clinics; penalties for driving under the influence; information sent to KBI central repository. (Federal and State Affairs)

Introduced-189

Referred-198

Report of committee-260

S 279. Mandatory minimum sentence for involuntary manslaughter while driving under the influence of alcohol drugs. (Federal and State Affairs)

Introduced-189

Referred-198

S 280. Suspension and restriction of driving privileges for test refusal, test failure or alcohol or drugrelated conviction for persons under 21. (Ways and Means)

Introduced—189

Referred—198

S 281. Sentencing for severity level 4 drug crimes; probation or assignment to community correctional services up to 18 months. (Ways and Means)

Introduced—189

Referred-198

S 282. Court of appeals; delay 14th judge position to January, 2011. (Ways and Means)

Introduced—226

Referred-235

S 283. Criminal procedure; community corrections, high risk or needs offenders determined by

the risk assessment tool, LSI-R; delay use until January 1, 2011. (Ways and Means)

Introduced—226

Referred-235

S 284. Third party administrator authorized for certain utilities energy efficiency and conservation programs. (Ways and Means)

Introduced—237 Referred—240

 S 285. KAN-ED; funding. (Ways and Means) Introduced—238; HJ—367 Referred—240; HJ—401 Report of committee—297 Committee of whole report—397 Final Action—398

S 286. Repealing statutes that authorize the destruction of prairie dogs by certain townships. (Federal and State Affairs)

Introduced—239 Referred—243

S 287. Prairie dog management, control and conservation. (Federal and State Affairs)

Introduced—239 Referred—243

S 288. Providing insurance coverage for colorec-

tal cancer screening. (Ways and Means)

Introduced-239

Referred-243

S 289. Increasing penalty for leaving the scene of a vehicle accident which results in death to match penalty for involuntary manslaughter while driving under the influence. (Ways and Means)

Introduced-239

Referred-243

S 290. Teachers at the school for the deaf and the school for the blind under the professional negotiation act. (Ways and Means)

Introduced—239; **HJ**—299 Referred—243; **HJ**—304 Report of committee—290; **HJ**—341 Committee of whole report—311; **HJ**—406 Final Action—313; **HJ**—430 Enrolled—536 Action of Governor—756

S 291. Establishing a procedure for preparation and adoption of reapportionment plans. (Federal and State Affairs)

Introduced-242

Referred-248

S 292. Civil procedure, liens; requiring notice of commencement and notice of furnishings to be filed prior to filing certain commercial property liens. (Ways and Means)

Introduced—242 Referred—248 **S 293.** Regulating traffic, concerning the definition of an all-terrain vehicle. (Ways and Means)

Introduced—243; **HJ**—351 Referred—248; **HJ**—367 Report of committee—330 Committee of whole report—349 Final Action—359

S 294. Amendments to the Kansas whistleblowers act; employee suggestion program. (Ways and Means)

Introduced—247 Referred—254

S 295. Blind and visually impaired persons, establishing the motor vehicle and safe mobility committee. (Ways and Means)

Introduced-253

Referred-256

S 296. Federal stimulus act, review and evaluation. (Ways and Means)

Introduced—254 Referred—256

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S 297. Concerning governmental ethics; eliminating the filing requirement for certain faculty of state education institutions; pertaining to reporting of certain expenditures by lobbyists; requiring certain members of the judicial branch to file disclosure statements. (Ways and Means)

Introduced—256; **HJ**—351 Referred—260; **HJ**—366 Report of committee—303 Committee of whole report—349 Final Action—359

S 298. Requiring well identification signs be placed on or near certain oil or gas wells. (Ways and Means)

Introduced—256; **HJ**—401 Referred—260; **HJ**—415 Report of committee—348 Committee of whole report—414 Final Action—473

 S 299. Regulation for underground hydrocarbon storage wells. (Ways and Means) Introduced—259; HJ—367 Referred—265; HJ—401 Report of committee—338 Committee of whole report—397

Final Action—398

S 300. Special overweight or oversize permits; increasing fees. (Ways and Means) Introduced—259; **HJ**—322 Referred—265; **HJ**—350 Report of committee—311 Committee of whole report—338 Final Action—341 **S 301.** Repealing statutes concerning land surveys relating to monumentation of corners in boundaries of subdivisions. (Ways and Means)

Introduced—259 Referred—264

S 302. Kansas intermodal transportation revolving fund; financing intermodal transportation pro-

jects. (Ways and Means) Introduced—259; **HJ**—367 Referred—265; **HJ**—401 Report of committee—311 Committee of whole report—397 Final Action—398

S 303. Abolishing KTEC and Kansas, Inc. and transferring the duties thereof to the department of commerce. (Ways and Means)

Introduced—261

Referred-280

S 304. Appropriations for FY 2009 through FY

2013 for various state agencies. (Ways and Means) Introduced—282

 $Referred_{287}$

S 305. Kansas tort claims act; charitable health care providers. (Ways and Means)

Introduced—282 Referred—287, 416 Report of committee—389

S 306. Kansas fireworks act; creating the fireworks and explosives fund. (Ways and Means)

Introduced—282; **HJ**—351 Referred—287; **HJ**—367 Report of committee—334 Final Action—358

S 307. State fire marshal duty to conduct on-site inspect of non-fuel flammable or combustible liquid aboveground storage tanks, delayed until July 1, 2012; compliance with standards, delayed until July

1, 2015. (Ways and Means) Introduced—282; **HJ**—367 Referred—287; **HJ**—401 Report of committee—338 Committee of whole report—397 Final Action—398

S 308. State agencies; relating to the 20% administrative fee charged to agencies; cap increased from \$200,000 to \$350,000. (Ways and Means)

Introduced-283

Referred—287

Report of committee-483

S 309. Appropriations for FY2010 and FY2011 for capital improvements for various state agencies. (Ways and Means)

Introduced—283

Referred-287

S 310. SRS prohibited from placing more than eight sexually violent predators in any one county

on transitional release or conditional release; annual report. (Ways and Means)

Introduced—286; **HJ**—367 Referred—293; **HJ**—401 Report of committee—349 Committee of whole report—397 Final Action—399

S 311. Sub for S 311 by Committee on Ways and Means — State budget, state general fund ending balance requirements, revenue shortfalls and reductions in authorized expenditures. (Ways and Means)

Introduced—293; **HJ**—695 Referred—300; **HJ**—696 Report of committee—771 Committee of whole report—794 Final Action—794

S 312. Public utility defined for property tax purposes related to natural gas inventories. (Ways and Means)

Introduced—293; **HJ**—413 Referred—300; **HJ**—415 Report of committee—404 Committee of whole report—484 Final Action—487

 S 313. School districts; contingency reserve fund; limitations, suspension of. (Ways and Means) Introduced—298; HJ—351 Referred—316; HJ—366 Report of committee—334

Committee of whole report—349 Final Action—360

S 314. Creating the special economic revitalization act. (Ways and Means)

Introduced—298 Referred—316

Referred—316

S 315. Amending the water appropriations act and the water projects environmental coordination act. (Ways and Means)

Introduced—324 Referred—337

S 316. Application of swine waste. (Ways and Means)

Introduced—324; **HJ**—401 Referred—337; **HJ**—415 Report of committee—343 Committee of whole report—415 Final Action—473

S 317. Abolishing KTEC and transferring the duties thereof to the department of commerce. (Ways and Means)

Introduced—325 Referred—337

S 318. Fees collected by state board of healing arts. (Ways and Means)

Introduced-325

Referred-337

S 319. Affiliation with the Kansas police and firemen's retirement system by adjutant general for membership of certain firefighters serving the 190th Kansas air national guard. (Ways and Means)

Introduced—325 Referred—337

S 320. The department of social and rehabilitation services, regarding the funeral assistance program. (Ways and Means)

Introduced—325

Referred-337

S 321. Insurance department; premium taxes collected, credited to the state general fund for FY 2010, not the insurance department service regulation fund. (Ways and Means)

Introduced-325

Referred-337

S 322. Emergency medical services board operating fund and fire service training program fund pay the 20% reimbursement to the state general fund for administrative costs. (Ways and Means)

Introduced—336

Referred-340

S 323. 2010 transportation plan, financing thereof. (Ways and Means)

Introduced—337

Referred-340

S 324. Kansas rural policy commission; membership, powers and duties. (Ways and Means)

Introduced—337; **HJ**—401 Referred—340; **HJ**—415 Report of committee—407

Committee of whole report-460

Final Action—473

S 325. Employment security law; allows alternate base periods and benefits for individuals forced to leave employment to care for ill or disabled family member. (Ways and Means)

Introduced—337

Referred-340

S 326. Increasing allowed transfer from crime victims compensation fund to crime victims assistance fund; from \$100,000 to \$300,000. (Ways and Means)

Introduced—339; **HJ**—442 Referred—358; **HJ**—450 Report of committee—483 Committee of whole report—498 Final Action—526

S 327. Creating the tobacco master settlement agreement compliance fund; transferring \$900,000 from Kansas endowment for youth fund; enforcing tobacco laws. (Ways and Means)

Introduced—340 Referred—358 **S 328.** Kansas health policy authority; grant program for local primary health projects, creating the aid to locals — primary health projects fund. (Ways and Means)

Introduced-340

Referred—358

S 329. Repealing the Kansas home inspectors professional competence and financial responsibility act. (Ways and Means)

Introduced—358

Referred—401, 412

Report of committee-480

 ${\bf S}$ ${\bf 330.}$ Reimbursement rates for nursing facilities; not applicable in fiscal year 2010. (Ways and Means)

Introduced-416

Referred-478

S 331. Attaching the athletic commission of the state of Kansas to the Kansas racing and gaming commission. (Ways and Means)

Introduced—530

Referred—532

S 332. Annexation by cities; territory of rural water districts; procedures. (Ways and Means)

Introduced—755 Referred—765

S 333. Authorizing the Kansas parole board to charge and collect certain fees. (Ways and Means)

Introduced-755

Referred—765

S 334. Rates of estate tax and franchise tax, three-year freeze without reduction. (Ways and Means)

Introduced-756

 $Referred_{765}$

S 335. Income taxation, deductions, determination of Kansas adjusted gross income and credits,

decoupling legislation. (Ways and Means)

Introduced-756

Referred—765

S 336. Reconciling amendments. (Ways and Means)

Introduced—761; **HJ**—695 Referred—765; **HJ**—696

Committee of whole report-794

Final Action—795; HJ—744

Further action of Senate-878

Enrolled—902

Action of Governor-902

S 337. Sub for S 337 by Committee on Assessment and Taxation — Settlement authority to resolve assessments by secretary of revenue. (Ways and Means)

Introduced—761 Referred—765

Report of committee—800

S 338. Distribution of revenue from tax on priv-

ilege of selling alcoholic liquor. (Ways and Means) Introduced—762

Referred—765

S 339. Energy conservation and electric generation, transmission, efficiency and air emissions. (Federal and State Affairs)

Introduced—814 Referred—815

TITLE AND HISTORY OF SENATE CONCURRENT RESOLUTIONS

SCR 1601. Joint rules for the Senate and the House of Representatives, 2009-2010. (Morris, Hensley, Schmidt, D)

Introduced—9; **HJ**—47 Referred—33; **HJ**—48 Report of committee—**HJ**—74 Committee of whole report—35; **HJ**—88 Final Action—35; **HJ**—112 Further action of Senate—114, 161 Further action of House—**HJ**—126, 150 Enrolled—236

SCR 1602. Constitutional amendment authorizing legislature to provide for the classification and taxation of watercraft. (Assessment and Taxation)

Introduced—59; **HJ**—401 Referred—67; **HJ**—415 Report of committee—146 Committee of whole report—415 Final Action—474

SCR 1603. Unified Greeley County; Greeley County, City of Tribune; endorsement. (Steineger) Introduced—67 Referred—75

SCR 1604. Encouraging the Kansas State Historical Society to commemorate the Kansas sesquicentennial. (Joint Committee on Arts and Cultural Resources)

Introduced—90; **HJ**—137 Referred—93; **HJ**—140 Report of committee—115 Committee of whole report—121; **HJ**—159 Final Action—122; **HJ**—168 Enrolled—236

SCR 1605. State constitutional amendment; deleting mental illness disqualification from voting. (Ethics and Elections)

Introduced—91

Referred—93

SCR 1606. Concurrent resolution opposing relocation of Guantanamo detainees to Kansas. (Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt, D, Schmidt, V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong)

Introduced—100; **HJ**—112 Referred—**HJ**—116 Committee of whole report—**HJ**—118 Final Action—**HJ**—128 Adopted—101 Enrolled—146 **SCR 1607.** Constitutional amendment to define underground storage natural gas owners as public utilities and subject them to property taxation. (Assessment and Taxation)

Introduced—105

Referred-119

SCR 1608. Kansas constitutional amendment; equal rights; no discrimination based on sex. (Federal and State Affairs)

Introduced-107

Referred-119

SCR 1609. Urging the Congress and the President to refrain from exercising powers beyond those constitutionally delegated. (Pilcher-Cook)

Introduced-144

Referred-148

SCR 1610. Urging the Environmental Protection Agency to authorize use of higher blends of ethanol. (Taddiken, Abrams, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt, D, Schmidt, V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wysong)

Introduced—240; **HJ**—322 Referred—243; **HJ**—350 Report of committee __310; **HJ**—372 Committee of whole report_338; **HJ**—519 Final Action—341; **HJ**—572 Enrolled—756

SCR 1611. Constitutional amendment concerning individual right to bear arms. (Petersen, Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Holland, Huelskamp, Kelly, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Pilcher-Cook, Pyle, Schmidt, D, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wysong)

Introduced—247; **HJ**—404 Referred—254; **HJ**—415 Report of committee—414 Committee of whole report—480; **HJ**—432 Final Action—480; **HJ**—435 Enrolled—588

SCR 1612. Constitutional amendment to have supreme court justices appointments subject to consent of the senate. (Wagle, Abrams, Brownlee, Bruce, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt, D, Taddiken) Introduced—262

Referred-280

SCR 1613. Constitutional amendment concerning appropriation of money by the legislative branch. (Wagle, Abrams, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt, D, Steineger, Taddiken)

Introduced—264

Referred—280

SCR 1614. Constitutional amendments; creating a budget stabilization fund in the state treasury; annual .25% transfer of general state revenues; transfers only under certain circumstances. (Schmidt, D, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt, V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wysong)

Introduced—299; **HJ**—401 Referred—316; **HJ**—415 Report of committee—334 Committee of whole report—414 Final Action—474

SCR 1615. Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights. (Pilcher-Cook, Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pyle, Schmidt, D, Schodorf, Taddiken, Vratil, Wagle)

Introduced—325

Referred-337

SCR 1616. Urging Kansas school districts to use carefully the federal stimulus funds received. (Ways and Means)

Introduced—326; **HJ**—723 Referred—337; **HJ**—779 Report of committee—762 Committee of whole report—870 Final Action—870

SCR 1617. Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action. (Kelsey, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt, D, Schmidt, V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong)

Introduced—410; **HJ**—519 Referred—478, 582; **HJ**—569 Report of committee—581 Committee of whole report—587 Final Action—587

SCR 1618. Urging the legislature to formulate and implement a comprehensive transportation plan by the 2010 legislative session. (Umbarger, Kultala, Marshall)

Introduced—858; **HJ**—744 Referred—859; **HJ**—779 Committee of whole report—871 Final Action—871

SCR 1619. Adjournment of the 2009 regular session of the legislative session. (Morris, Hensley, Schmidt, D)

Introduced—894; **HJ**—778 Adopted—895; **HJ**—778 Enrolled—902 SR 1801. Organization of the Senate, 2009. (Morris, Hensley, Schmidt, D) Introduced—8 Adopted—8 Enrolled—44
SR 1802. Assignment of seats in Senate, 2009. (Morris, Hensley, Schmidt, D) Introduced—8 Adopted—8 Enrolled—44
SR 1803. Bulos of the Senate 2009.2012.

SR 1803. Rules of the Senate, 2009-2012. (Morris, Hensley, Schmidt, D)

Introduced—17 Referred—33 Committee of whole report—35 Final Action—35 Enrolled—44

SR 1804. Congratulating Sue Krische. (Morris, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt, D, Schmidt, V, Schodorf, Steineger, Taddiken, Taidhmen, Lunberger, Vartil Worle, Wirzong)

Teichman, Umbarger, Vratil, Wagle, Wysong)

Introduced—38 Adopted—39

Ruopieu—39

Enrolled—44

SR 1805. Congratulating the members of the 2009 Kansas Teacher of the Year Team. (Schodorf) Introduced—48

Adopted—49

Enrolled—55

Enrolled—55 SR 1806. Congratulating Shirley Higgins. (Morris, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Ostmeyer, Owens,

Petersen, Pilcher-Cook, Pyle, Reitz, Śchmidt, D, Schmidt, V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong)

Introduced—61

Adopted—62

Enrolled—76

SR 1807. Recognizing the dedication of an American Braille tactile flag. (Barnett)

Introduced—62 Adopted—62 Enrolled—76

SR 1808. Congratulating the West Elk High

School boys' track and field team. (Schmidt, D) Introduced—102 Adopted-102

Enrolled—115

SR 1809. Recognizing Justin Cessna and thanking those who helped him receive bariatric surgery. (Barnett)

Introduced-102

- Adopted—103
- Enrolled-115

SR 1810. Congratulating the Moundridge High School debate team. (Emler)

Introduced—114

Adopted—115

Enrolled-125

SR 1811. Encouraging participation in the American Heart Association's Go Red for Women

campaign. (Schmidt, V)

Introduced—120

Adopted—120

Enrolled—125

SR 1812. Congratulating Norma Grubb. (Schmidt, V)

Introduced—127

Adopted—128

Enrolled—166

SR 1813. Congratulating the Independence

High School boys' tennis team. (Schmidt, D)

Introduced—128 Adopted—129 Enrolled—166

SR 1814. Congratulating the Washburn Rural High School volleyball team on its State Champi-

onship. (Schmidt, V) Introduced—129 Adopted—129 Enrolled—166

SR 1815. Congratulating the McPherson High School Residential Construction Management

Team. (Emler)

Introduced—129

Adopted-130

Enrolled—166

SR 1816. Congratulating the Butler Community College football team. (Masterson)

Introduced—145

Adopted—146

Enrolled—166

SR 1817. Rules of the Senate, 2009-2012.

(Schmidt, D)

Introduced—149

- Adopted—161
- Enrolled—195
- SR 1818. Recognizing Gene Amos. (Lynn, Pilcher-Cook)

Introduced—163

Adopted—163 Enrolled—195

SR 1819. Commemorating the bicentennial of President Abraham Lincoln's birth. (Hensley, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt, D, Schmidt, V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong)

Introduced-163

Adopted-165

Enrolled-227

SR 1820. Congratulating the Norton Community High School girls' track and field team. (Ostmever)

- Introduced—178
- Adopted—178
- Enrolled—195 SR 1821. Commemorating the 100th anniver-

sary of the founding of the NAACP. (Haley, Faust-Goudeau)

Introduced—165

- Adopted—166
- Enrolled—195

SR 1822. In memory of Norma Daniels. (McGinn)

- Introduced—180 Adopted—180
- Enrolled—195

SR 1823. Recognizing and thanking Best Buy Inc. and its Manhattan store. (Schmidt, V)

Introduced—180 Adopted—181

Enrolled—195

SR 1824. Recognizing and congratulating Wolf Creek's license renewal. (Schmidt, D)

Introduced—181

- Adopted—181 Enrolled—195
- SR 1825. Congratulating the 2008 Kansas Na-

tional Board Certified Teachers. (Schodorf)

Introduced—192 Adopted—193

- Enrolled-227
- SR 1826. Congratulating the 2009 Horizon
- Award Program educators. (Schodorf)

Introduced-193

Adopted—194

Enrolled—227

SR 1827. Congratulating the winner of the 2008 Kansas Milken Family Foundation National Educator Award. (Schodorf)

Introduced—194

Adopted-195

Enrolled-227

SR 1828. Urging the Kansas Congressional Delegation to oppose the Employee Free Choice Act. (Huelskamp, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Pilcher-Cook, Pyle, Schmidt, D, Taddiken, Teichman, Umbarger, Vratil, Wagle) Introduced-202 Referred-216 Report of committee-260 SR 1829. Congratulating Katie Weil and Audrey Baker. (Brownlee) Introduced-221 Adopted-221 Enrolled-238 SR 1830. Congratulating Dr. Suzanne Blair. (Brownlee) Introduced-222 Adopted-222 Enrolled-238 SR 1831. Congratulating Emily Deaver. (Masterson) Introduced-241 Adopted-241 Enrolled-252 SR 1832. Congratulating Pittsburg State football Head Coach Chuck Broyles. (Marshall) Introduced-244 Adopted-245 Enrolled-252 SR 1833. Congratulating Pittsburg State offensive coordinator Tim Beck. (Marshall) Introduced-245 Adopted-246 Enrolled-252 SR 1834. Congratulating Ed Dwight. (Haley) Introduced-248 Adopted-249 Enrolled-252 SR 1835. Urging the Government of Turkey to respect the Ecumenical Patriarchate and to uphold religious rights. (Owens, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Kelly, Kelsey, Kultala, Lee, McGinn, Ostmeyer, Pilcher-Cook, Reitz, Schmidt, D, Schodorf, Umbarger, Vratil) Introduced-249 Referred-254 SR 1836. Congratulating the Goodland High School girls' golf team. (Ostmeyer) Introduced-250 Adopted-250 Enrolled-254 SR 1837. Congratulating the Scott Community High School boys' track and field team. (Ostmeyer)

Introduced-251 Adopted-251 Enrolled-254 SR 1838. Congratulating the Ness City High School boys' cross-county team. (Ostmeyer) Introduced-251 Adopted-251 Enrolled-254 SR 1839. Congratulating the Greeley County High School girls' cross-country team. (Óstmeyer) Introduced-251 Adopted-252 Enrolled—254 SR 1840. Congratulating the Sterling High School debate team. (Emler) Introduced-254 Adopted-254 Enrolled-268 SR 1841. Recognizing and congratulating the Ursuline Sisters of Kansas for their 113 years of faith and service. (Apple) Introduced—257 Adopted-257 Enrolled-268 SR 1842. In memory of Jana Mackey and calling Kansans to serve others. (Francisco, Lee) Introduced-266 Adopted-266 Enrolled-285 SR 1843. Congratulating Matthew Heck. (Donovan) Introduced-266 Adopted-267 Enrolled-285 SR 1844. Encouraging participation in Kansas Public Health Week. (Barnett, Abrams, Apple, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt, D, Schmidt, V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong) Introduced-267 Adopted-268 Enrolled-285 SR 1845. Congratulating Avery Clifton. (Schmidt, V) Introduced-283

Adopted—283 Final 285

Enrolled-285

SR 1846. Congratulating the 2009 Kansas Master Teachers. (Barnett, Abrams, Apple, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee,

Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt, D, Schmidt, V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong)

Introduced—284 Adopted—284 Enrolled—285

SR 1847. Recognizing the Kansas Small Business Development Center's 2008 Businesses of the Year. (Brownlee)

Introduced—287 Adopted—288 Enrolled—328

SR 1848. Congratulating Felix Zacharias. (Faust-Goudeau)

Introduced—301 Adopted—302 Enrolled—328

P 1940 Designation

SR 1849. Designating March as Kidney Awareness Month. (McGinn)

Introduced—302 Adopted—302

Enrolled-328

SR 1850. Recognizing the University of Kansas men's basketball team and declaring that it should not play teams that start with "B" in March. (Wysong)

Introduced—303 Adopted—303

Enrolled-328

SR 1851. Urging review and reorganization of health information laws. (Public Health and Welfare)

Introduced-317

Referred—327

Report of committee—329

Committee of whole report-397

Final Action-399

Enrolled—414

SR 1852. Commemorating the sesquicentennial

of Iola, Kansas. (Schmidt, D)

Introduced—327 Adopted—328

Enrolled—403

SR 1853. Congratulating the Greeley County

High School Scholars Bowl Team. (Ostmeyer) Introduced—402 Adopted—402 Enrolled—414

SR 1854. Congratulating the Rawlins County High School girls' track team. (Ostmeyer)

Introduced—403 Adopted—403 Enrolled—414

(HJ Nos. refer to 2009 House Journal)

SR 1855. Congratulating the Colby High School girls' tennis doubles team. (Ostmeyer)

Introduced-403

Adopted-403

Enrolled-414

SR 1856. Resolution designating Diabetes Alert day. (Schmidt, V, Barnett, Brungardt, Colver,

Reitz)

Introduced-413

Adopted-413

Enrolled-414

SR 1857. Congratulating Joanna Behrman. (Faust-Goudeau)

Introduced-483

Adopted-483

Enrolled-491

SR 1858. In memory of Ray Shepherd. (Marshall)

Introduced-479 Adopted-479 Enrolled-491

SR 1859. Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding. (Petersen, Apple, Barnett, Brownlee, Colver, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Schmidt, D, Schmidt, V, Taddiken, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wysong) Introduced-417 Referred-478 Committee of whole report-484 Final Action-487 Enrolled-491 SR 1860. Congratulating the Hayden High School girls' golf team. (Kelly)

Introduced-479 Adopted-480 Enrolled—491

SR 1861. Congratulating the Smith Center High School football team. (Lee) Introduced-509

Adopted-510

Enrolled-536

SR 1862. Congratulating the Smith Center High School wrestling team. (Lee) Introduced-510 Adopted-510

Enrolled-536

SR 1863. Congratulating Jered Rice. (Lee) Introduced-511 Adopted-511 Enrolled-536

SR 1864. Congratulating the Washburn Rural

High School girls' basketball team. (Schmidt, V) Introduced-534 Adopted-534

Enrolled-588

SR 1865. Proclaiming April 17 and 18 as "Kan-

sas Exoduster Colonies' Days". (Schmidt, D, Faust-

Goudeau, Haley, Ostmeyer) Introduced-534 Adopted-535

Enrolled-588

SR 1866. Congratulating the Highland Park

High School boys' basketball team. (Hensley, Kelly, Schmidt, V)

Introduced-535 Adopted-536

Enrolled-588

SR 1867. Congratulating the Colby High School

wrestling team. (Ostmeyer) Introduced-536 Adopted-536 Enrolled-588

SR 1868. Designating Kansas Cerebral Palsy Awareness Day. (McGinn)

Introduced-538

Adopted—539

Enrolled-588

SR 1869. Congratulating the Kansas Medical Society on its 150th Anniversary. (Vratil, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Faust-Goudeau, Colver, Donovan, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt, D, Schmidt, V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wysong)

Introduced-573

Adopted-573

Enrolled-699

SR 1870. Commemorating the twentieth anniversary of the sister-state relationship between Kansas and the Province of Taiwan, Republic of China. (Steineger, Morris, Schmidt, D)

Introduced-583

Adopted—583

Enrolled-699

SR 1871. Designating April as Minority Health

Awareness Month. (Haley, Faust-Goudeau)

Introduced-583

Adopted-584 Enrolled-699

SR 1872. In memory of Charles R. "Dick" Webb. (Marshall) Introduced-609

Adopted-610

(HJ Nos. refer to 2009 House Journal)

Enrolled-699

- SR 1873. Congratulating the Wichita Heights boys' basketball team. (McGinn, Abrams, Donovan, Faust-Goudeau, Kelsey, Masterson, Petersen, Schodorf, Wagle) Introduced—610
 - Adopted—610
 - Enrolled-699
- **SR 1874.** Congratulating and commending the Basehor-Linwood boy's basketball team for winning the Class 4A state championship. (Holland)
 - Introduced—757 Adopted—758
 - Enrolled—762
- **SR 1875.** Congratulating Marie Clement. (Morris)
 - Introduced—758 Adopted—758
 - Enrolled—762
- - Introduced—759
 - Adopted—759
 - Enrolled—762
- SR 1877. Congratulating the University of Kansas debate team. (Francisco) Introduced—759
 - Adopted—760 Enrolled—770
- **SR 1878.** In memory of Senator James B. Pearson. (Holland, Schmidt, D)
 - Introduced—765 Adopted—766
 - Enrolled-770
- **SR 1879.** Congratulating Shalee Lehning. (Morris)
 - Introduced—766
 - Adopted—767
 - Enrolled—770
- **SR 1880.** Congratulating and commending Ron Wood for his many years of professional and community service and volunteer efforts in the Chetopa area and beyond. (Umbarger)
 - Introduced—767
 - Adopted—767
 - Enrolled—770
 - 1881 Congre
- **SR 1881.** Congratulating Lucas Vincent and Chaz Lawrence. (Brownlee, Colyer, Lynn)

Introduced—768

- Adopted-768
- Enrolled—774
- **SR 1882.** Congratulating Clark Thomas. (Brownlee, Colyer, Lynn)
- Introduced—768 Adopted—768

Enrolled-774

- **SR 1883.** Congratulating the Olathe East High School boys' swimming team. (Brownlee, Colyer, Lynn)
 - Introduced—768
 - Adopted-769
 - Enrolled-774
- **SR 1884.** Congratulating the Olathe South High School boys' soccer team. (Brownlee)
 - Introduced—769 Adopted—769
 - Enrolled-774
- **SR 1885.** Congratulating the Olathe East High School girls' gymnastics team. (Brownlee, Colyer, Lynn)
 - Introduced—770 Adopted—770 Enrolled—774
- **SR 1886.** Supporting an EcoPartnership between Wichita, Kansas and Wuxi, China. (McGinn)
 - Introduced—772 Adopted—773
 - Enrolled—823
- **SR 1887.** Honoring and thanking Emalene Correll. (Morris, Hensley, Schmidt, D, Vratil)
 - Introduced—773
 - Adopted—774
 - Enrolled—823
- **SR 1888.** Recognizing the observance of Juneteenth Day. (Haley, Faust-Goudeau)
 - Introduced—815 Adopted—815 Enrolled—823
- **SR 1889.** Congratulating the Johnson County Community College men's basketball team.
- (Wysong)
 - Introduced—821 Adopted—822
 - Enrolled—823
- **SR 1890.** Congratulating the Johnson County Community College women's half-marathon team.
- (Wysong)
 - Introduced—822 Adopted—822 Enrolled—823
- SR 1891. Commemorating the 40th anniversary
- of Johnson County Community College. (Wysong) Introduced—823 Adopted—823 Enrolled—823
- SR 1892. Congratulating Nicole Wayant. (Kelly) Introduced—849 Adopted—850 Enrolled—902
- SR 1893. Congratulating Ed and Judy Colson.
- (Lynn, Brownlee, Colyer)
 - Introduced-855

Adopted—856 Enrolled—902

SR 1894. Congratulating the Olathe North Culinary Arts students. (Lynn, Brownlee, Colyer)

Introduced—856

Adopted—857

Enrolled—902

SR 1895. Commemorating the quincentenary of

the birth of Andreas Palladio. (Colyer)

Introduced—857

Adopted—858

Enrolled—902

SR 1896. Honoring University of Kansas Chancellor Robert E. Hemenway. (Schodorf, Abrams,

Hensley, Huelskamp, Marshall, Owens, Steineger, Teichman, Umbarger, Vratil, Wagle)

Introduced—871 Adopted—872 Enrolled—902

SR 1897. Recognizing the 90th anniversary of the passage of the 19th Amendment to the United States Constitution. (Kultala, Brownlee, Faust-Goudeau, Francisco, Kelly, Lee, Lynn, McGinn, Pilcher-Cook, Schmidt, V, Schodorf, Teichman, Wagle)

Introduced—903 Adopted—904 Enrolled—906

SENATE CALENDAR No. 65

JANUARY 12, 2009 THROUGH ADJOURNMENT JUNE 4, 2009 NUMERICAL SCHEDULE OF SENATE BILLS 2009 SESSION

1 Signed, St Bk 2 Ethics & Elect H Sub **3 H Elections** 4 Transportation 5 Signed, St Bk Sub 6 H Judiciary 7 Education 8 Signed, Pub 4/16/09 9 Signed, Pub 4/23/09 10 Education 11 Signed, St Bk 12 Fin Inst & Ins 13 Fed & St Aff 14 Signed, Pub 3/26/09 15 Judiciary 16 Signed, St Bk 17 Judiciary 18 Judiciary 19 Signed, St Bk 20 Ways & Means 21 Ways & Means H Sub 22 H Gen Order H Sub for Sub 23 Signed, Line Item Vetoes. Pub 3/19/09 24 Fin Inst & Ins

25 H Health/Hum 26 H Corr & Juv Jus 27 Judiciary Sub 28 Signed, St Bk 29 Signed, St Bk 30 Conf Com H Sub 31 Rejected, House 32 Judiciary 33 Signed, St Bk 34 Signed, St Bk 35 Signed, Pub 4/30/09 36 Commerce 37 Rejected, House 38 Signed, St Bk 39 Signed, Pub 4/23/09 40 Signed, St Bk 41 Signed, St Bk 42 Ethics & Elect H Sub 43 H Aging 44 Signed, Pub 4/30/09 45 Signed, St Bk 46 Signed, Pub 4/2/09 47 Utilities Sub 48 H Energy & Util 49 H Insurance

50 Signed, St Bk H Sub 51 Vetoed. Sustained 52 Fed & St Aff 53 Signed, St Bk 54 H Ec Dev & Tour 55 H Elections 56 H Elections 57 Ethics & Elect Sub 58 H Energy & Util 59 H Transportation 60 Signed, St Bk 61 Signed, St Bk 62 H Health/Hum 63 Pub H & Wel 64 Signed, St Bk 65 Natural Res 66 Signed, St Bk 67 Judiciary 68 Signed, St Bk 69 H Ag & Nat Res 70 Signed, St Bk **71 H Elections** 72 Signed, St Bk 73 H Appropriations 74 H Ed Budget 75 H Local Gov 76 Fed & St Aff 77 Signed, Pub 4/2/09 78 Signed, St Bk

79 H Elections 80 Signed, Pub 4/23/09 81 Pub H & Wel 82 Signed, St Bk 83 H Health/Hum 84 Signed, Pub 5/28/09 85 Signed, St Bk 86 Signed, St Bk & 7/1/2010 87 Signed, St Bk 88 Judiciary Sub 89 Rejected, House 90 Fin Inst & Ins H Sub 91 Signed, St Bk 92 H Judiciary 93 H Judiciary 94 H Judiciary H Sub 95 H Gen Orders 96 Ways & Means 97 Signed, St Bk H Sub 98 Signed, St Bk 99 Assess & Tax 100 General Orders 101 Pub H & Wel 102 Signed, St Bk 103 H Elections 104 Fin Inst & Ins 105 Rejected, House 106 Fed & St Aff 107 Killed, Fin Act 108 Signed, Pub 4/16/09 109 Ways & Means 110 Judiciary 111 Assess & Tax

112 Judiciary 113 Fed & St Aff 114 Fed & St Aff 115 Signed, St Bk 116 Fed & St Aff Sub 117 H Elections 118 H Local Gov 119 Rejected, House 120 Signed, Pub 4/16/09 121 Pub H & Wel 122 Signed, St Bk 123 Signed, St Bk 124 Ways & Means 125 Ways & Means H Sub 126 H Insurance 127 Assess & Tax 128 Ways & Means 129 Local Gov 130 Education 131 Conf Com 132 Signed, St Bk & 7/1/2010 133 Ways & Means 134 Signed, St Bk 135 Signed, St Bk 136 Fin Inst & Ins 137 Signed, St Bk 138 H Taxation 139 Rejected, House 140 Assess & Tax 141 Ways & Means 142 Killed. Fin Act 143 Fed & St Aff 144 Local Gov H Sub 145 Signed, St Bk 146 H Appropriations 147 H Gen Orders

148 Signed, Pub 4/2/09 149 Education 150 Education 151 Ways & Means 152 H Transportation 153 H Transportation 154 Signed, St Bk 155 Judiciary 156 Signed, St Bk 157 Judiciary 158 Signed, St Bk 159 Rejected, House 160 Signed, St Bk 161 Signed, Pub 4/30/09 H Sub 162 Rejected, House 163 Signed, St Bk 164 Local Gov 165 Ways & Means 166 Pub H & Wel 167 Fin Inst & Ins H Sub 168 Signed, Pub 5/28/09 169 Fed & St Aff 170 Pub H & Wel 171 Vetoed, Sustained 172 Fin Inst & Ins 173 H Health/Hum 174 H Insurance 175 Signed, St Bk 176 Education 177 Assess & Tax 178 Signed, St Bk & 1/1/2009 179 General Orders 180 Pub H & Wel 181 Fin Inst & Ins

182 Natural Res. 183 Rejected, House Sub 184 H Gen Orders 185 Agriculture 186 Ethics & Elect 187 Signed, St Bk 188 Judiciary 189 Natural Res 190 Ethics & Elect 191 Ethics & Elect 192 Assess & Tax 193 Ethics & Elect 194 Education 195 Fin Inst & Ins 196 Ways & Means 197 Assess & Tax 198 Local Gov 199 Ways & Means 200 H Health/Hum 201 H Vet Mltry Sec 202 Fed & St Aff 203 Signed, St Bk 204 Fed & St Aff H Sub 205 H Gen Ord 206 Fin Inst & Ins 207 Ways & Means 208 Judiciary 209 Education 210 Ethics & Elect 211 Judiciary 212 Signed, St Bk 213 H Fed & St Aff Sub 214 H Ag & Nat Res 215 H Ag & Nat Res 216 Judiciary 217 Utilities H Sub 218 Vetoed, Sustained

219 Signed, Pub 3/26/09 Sub 220 H Tran/Pub Safe 221 Ways & Means 222 Fed & St Aff 223 H Judiciary 224 H Judiciary 225 Signed, St Bk 226 Ways & Means 227 Commerce 228 Signed, St Bk 229 Fed & St Aff 230 Fin Inst & Ins 231 Agriculture 232 Judiciary 233 Judiciary 234 Judiciary 235 Judiciary 236 Judiciary 237 Signed, St Bk H Sub 238 Signed, St Bk 239 Fin Inst & Ins 240 Signed, St Bk 241 H Fin Inst 242 Killed, Fin Act 243 Assess & Tax 244 Assess & Tax 245 Local Gov 246 Fed & St Aff 247 H Fed & St Aff 248 H Gen Orders 249 H Health/Hum 250 Commerce 251 Commerce 252 Ways & Means 253 Signed, St Bk H Sub 254 Conf Com 255 H Taxation 256 Agriculture

H Sub 257 Signed, St Bk 258 Commerce 259 Ways & Means 260 H Insurance 261 Ethics & Elect 262 H Health/Hum 263 Fin Inst & Ins 264 Assess & Tax 265 Utilities 266 Assess & Tax 267 Ethics & Elect **268 H Elections** 269 H Judiciary 270 Judiciary 271 Local Gov 272 Judiciary 273 Fed & St Aff 274 H Ec Dev & Tour 275 Signed, Pub 4/23/09 276 Transportation 277 Judiciary Sub 278 General Orders 279 Judiciary 280 Judiciary 281 Judiciary 282 Judiciary 283 Judiciary 284 Utilities 285 H Energy & Util 286 Natural Res 287 Natural Res 288 Fin Inst & Ins 289 Judiciary 290 Signed, St Bk 291 Fed & St Aff 292 Judiciary 293 H Transportation 294 Ways & Means 295 Transportation

296 Ways & Means	312 H Taxation	327 Ways & Means
297 H Elections	313 H Appropriations	328 Ways & Means
298 H Energy & Util	314 Commerce	329 General Orders
299 H Energy & Util	315 Natural Res	330 Ways & Means
300 H Transportation	316 H Ag & Nat Res	331 Fed & St Aff
301 Fed & St Aff	317 Ways & Means	332 Natural Res
302 H Transportation	318 Ways & Means	333 Ways & Means
303 Ways & Means	319 Ways & Means	334 Assess & Tax
304 Ways & Means	320 Ways & Means	335 Assess & Tax
305 Judiciary	321 Ways & Means	336 Signed, Pub
306 H Fed & St Aff	322 Ways & Means	6/4/09
307 H Ag & Nat Res	323 Transportation	Sub
308 General Orders	324 H Com & Labor	337 General Orders
309 Ways & Means	325 Commerce	338 Assess & Tax
310 H Judiciary	326 H Appropriations	339 Utilities
Sub		
311 H Appropriations		

NUMERICAL SCHEDULE OF SENATE CONCURRENT RESOLUTIONS 2009 SESSION

1601 CCR Adopt, Enr	1608 Fed & St Aff	1614 H Approp
1602 H Taxation	1609 Judiciary	1615 Judiciary
1603 Local Gov	1610 Adopted & Enr	1616 H Approp
1604 Adopted & Enr	1611 Adopted & Enr	1617 H Gen Orders
1605 Judiciary	1612 Judiciary	1618 H Trans
1606 Adopted & Enr	1613 Judiciary	1619 Adopted & Enr
1607 Assess & Tax		

NUMERICAL SCHEDULE OF SENATE RESOLUTIONS 2009 SESSION

1801 Adopted & Enr	1811 Adopted & Enr	1821 Adopted & Enr
1802 Adopted & Enr	1812 Adopted & Enr	1822 Adopted & Enr
1803 Adopted & Enr	1813 Adopted & Enr	1823 Adopted & Enr
1804 Adopted & Enr	1814 Adopted & Enr	1824 Adopted & Enr
1805 Adopted & Enr	1815 Adopted & Enr	1825 Adopted & Enr
1806 Adopted & Enr	1816 Adpoted & Enr	1826 Adopted & Enr
1807 Adopted & Enr	1817 Adopted & Enr	1827 Adopted & Enr
1808 Adopted & Enr	1818 Adopted & Enr	1828 Died, Gen Ord
1809 Adopted & Enr	1819 Adopted & Enr	1829 Adopted & Enr
1810 Adopted & Enr	1820 Adopted & Enr	1830 Adopted & Enr

1831 Adopted & Enr	1854 Adopted & Enr	1876 Adopted & Enr
1832 Adopted & Enr	1855 Adopted & Enr	1877 Adopted & Enr
1833 Adopted & Enr	1856 Adopted & Enr	1878 Adopted & Enr
1834 Adopted & Enr	1857 Adopted & Enr	1879 Adopted & Enr
1835 Died in Com	1858 Adopted & Enr	1880 Adopted & Enr
1836 Adopted & Enr	1859 Adopted & Enr	1881 Adopted & Enr
1837 Adopted & Enr	1860 Adopted & Enr	1882 Adopted & Enr
1838 Adopted & Enr	1861 Adopted & Enr	1883 Adopted & Enr
1839 Adopted & Enr	1862 Adopted & Enr	1884 Adopted & Enr
1840 Adopted & Enr	1863 Adopted & Enr	1885 Adopted & Enr
1841 Adopted & Enr	1864 Adopted & Enr	1886 Adopted & Enr
1842 Adopted & Enr	1865 Adopted & Enr	1887 Adopted & Enr
1843 Adopted & Enr	1866 Adopted & Enr	1888 Adopted & Enr
1844 Adopted & Enr	1867 Adopted & Enr	1889 Adopted & Enr
1845 Adopted & Enr	1868 Adopted & Enr	1890 Adopted & Enr
1846 Adopted & Enr	1869 Adopted & Enr	1891 Adopted & Enr
1847 Adopted & Enr	1870 Adopted & Enr	1892 Adopted & Enr
1848 Adopted & Enr	1871 Adopted & Enr	1893 Adopted & Enr
1849 Adopted & Enr	1872 Adopted & Enr	1894 Adopted & Enr
1850 Adopted & Enr	1873 Adopted & Enr	1895 Adopted & Enr
1851 Adopted & Enr	1874 Adopted & Enr	1896 Adopted & Enr
1852 Adopted & Enr	1875 Adopted & Enr	1897 Adopted & Enr
1853 Adopted & Enr		

SENATE ACTION ON HOUSE BILLS 2009 SESSION

2001 Passed 2002 P Am, H Con 2003 Passed 2004 Passed 2007 Passed Sub 2008 CCR Adopted 2010 P Am, H Con S Sub for Sub 2014 CCR Adopted 2023 Passed 2026 Passed Sub 2029 Local Gov S Sub 2032 P Am, H Con 2039 Judiciary 2045 Passed Sub 2050 Passed 2052 CCR Adopted 2054 Passed 2059 Passed 2060 CCR Adopted 2068 Passed S Sub 2072 CCR Adopted 2079 Assess & Tax 2084 Judiciary S Sub 2085 P Am, H Con 2091 Passed 2092 Passed

HISTORY OF BILLS

S Sub 2096 CCR Adopted S Sub 2097 Killed, Fin Act 2098 P Am. H Con S Sub 2099 P Am. H Con 2111 Passed S Sub 2115 Conf Com 2121 CCR Adopted 2125 Local Gov S Sub 2126 CCR Adopted 2130 Conf Com 2131 CCR Adopted 2134 CCR Adopted 2142 Passed Sub 2143 Passed 2147 Passed 2152 CCR Adopted 2155 P Am, H Con 2157 Passed 2158 CCR Adopted 2162 CCR Adopted 2164 Killed, Fin Act 2165 Passed 2171 P Am, H Con 2172 CCR Adopted 2180 Fed & St Aff

2185 P Am, H Con 2188 Passed 2195 CCR Adopted 2197 P Am. H Con 2201 Passed 2206 Fed & St Aff 2207 Passed 2214 CCR Adopted S Sub 2219 Conf Com 2221 Conf Com 2222 Ways & Means 2232 Passed 2233 P Am, H Con 2236 Passed 2250 CCR Adopted 2258 P Am, H Con S Sub 2260 CCR Adopted 2265 Conf Com S Sub 2267 CCR Adopted 2270 Passed 2275 Pub H & Wel 2283 P Am 2292 CCR Adopted S Sub 2295 P Am, H Con 2297 Passed 2299 Transportation 2308 P Am, H Con

2310 Pub H & Wel 2311 Passed 2319 Assess & Tax Sub 2320 Ways & Means 2321 Passed 2323 Pub H & Wel 2324 P Am, H Con 2325 Assess & Tax 2331 Passed Sub 2339 Passed Sub 2340 Judiciary 2343 Passed 2353 Assess & Tax S Sub 2354 CCR Adopted 2356 Pub H & Wel 2359 Passed 2360 Ways & Means S Sub for Sub 2365 P Am, H Con 2366 Passed S Sub 2369 P Am, H Con S Sub 2373 P Am, H Con 2374 P Am, H Con 2383 Ways & Means 2388 Assess & Tax

SENATE ACTION ON HOUSE CONCURRENT RESOLUTIONS 2009 SESSION

5001 Adopted	5012 Natural Res	5020 Adopted
5002 Adopted	5013 Natural Res	5021 Adopted
5007 Adopted	5015 Adopted	5023 Adopted
5008 Local Gov	5018 Adopted	

SENATE BILLS CARRIED OVER TO 2010 SESSION

62 H Health/Hum

2 Ethics & Elect H Sub **3 H Elections** 4 Transportation Sub 6 H Judiciary 7 Education 10 Education 12 Fin Inst & Ins 13 Fed & St Aff 15 Judiciary 17 Judiciary 18 Judiciary 20 Ways & Means 21 Ways & Means H Sub 22 H Gen Order 24 Fin Inst & Ins 25 H Health/Hum 26 H Corr & Juv Jus 27 Judiciary 30 Conf Com 32 Judiciary 36 Commerce 42 Ethics & Elect H Sub 43 H Aging 47 Utilities Sub 48 H Energy & Util 49 H Insurance 52 Fed & St Aff 54 H Ec Dev & Tour **55 H Elections** 56 H Elections 57 Ethics & Elect Sub 58 H Energy & Util 59 H Transportation

63 Pub H & Wel 65 Natural Res 67 Judiciary 69 H Ag & Nat Res 71 H Elections 73 H Appropriations 74 H Ed Budget 75 H Local Gov 76 Fed & St Aff 79 H Elections 81 Pub H & Wel 83 H Health/Hum 88 Judiciary 90 Fin Inst & Ins 92 H Judiciary 93 H Judiciary 94 H Judiciary H Sub 95 H Gen Orders 96 Ways & Means 99 Assess & Tax 100 General Orders 101 Pub H & Wel 103 H Elections 104 Fin Inst & Ins 106 Fed & St Aff 109 Ways & Means 110 Judiciary 111 Assess & Tax 112 Judiciary 113 Fed & St Aff 114 Fed & St Aff 116 Fed & St Aff Sub 117 H Elections 118 H Local Gov 121 Pub H & Wel 124 Ways & Means

125 Ways & Means H Sub 126 H Insurance 127 Assess & Tax 128 Ways & Means 129 Local Gov 130 Education 131 Conf Com 133 Ways & Means 136 Fin Inst & Ins 138 H Taxation 140 Assess & Tax 141 Ways & Means 143 Fed & St Aff 144 Local Gov 146 H Appropriations 147 H Gen Orders 149 Education 150 Education 151 Ways & Means 152 H Transportation 153 H Transportation 155 Judiciary 157 Judiciary 164 Local Gov 165 Ways & Means 166 Pub H & Wel 167 Fin Inst & Ins 169 Fed & St Aff 170 Pub H & Wel 172 Fin Inst & Ins 173 H Health/Hum 174 H Insurance 176 Education 177 Assess & Tax 179 General Orders 180 Pub H & Wel 181 Fin Inst & Ins 182 Natural Res

Sub 184 H Gen Orders 185 Agriculture 186 Ethics & Elect 188 Judiciary 189 Natural Res 190 Ethics & Elect 191 Ethics & Elect 192 Assess & Tax 193 Ethics & Elect 194 Education 195 Fin Inst & Ins 196 Ways & Means 197 Assess & Tax 198 Local Gov 199 Ways & Means 200 H Health/Hum 201 H Vet Mltry Sec 202 Fed & St Aff 204 Fed & St Aff H Sub 205 H Gen Ord 206 Fin Inst & Ins 207 Ways & Means 208 Judiciary 209 Education 210 Ethics & Elect 211 Judiciary 213 H Fed & St Aff Sub 214 H Ag & Nat Res 215 H Ag & Nat Res 216 Judiciary 217 Utilities Sub 220 H Tran/Pub Safe 221 Ways & Means 222 Fed & St Aff 223 H Judiciary 224 H Judiciary 226 Ways & Means 227 Commerce

229 Fed & St Aff 230 Fin Inst & Ins 231 Agriculture 232 Judiciary 233 Judiciary 234 Judiciary 235 Judiciary 236 Judiciary 239 Fin Inst & Ins 241 H Fin Inst 243 Assess & Tax 244 Assess & Tax 245 Local Gov 246 Fed & St Aff 247 H Fed & St Aff 248 H Gen Orders 249 H Health/Hum 250 Commerce 251 Commerce 252 Ways & Means H Sub 254 Conf Com 255 H Taxation 256 Agriculture 258 Commerce 259 Ways & Means 260 H Insurance 261 Ethics & Elect 262 H Health/Hum 263 Fin Inst & Ins 264 Assess & Tax 265 Utilities 266 Assess & Tax 267 Eth & Elect 268 H Elections 269 H Judiciary 270 Judiciary 271 Local Gov 272 Judiciary 273 Fed & St Aff 274 H Ec Dev & Tour 276 Transportation

277 Judiciary Sub 278 General Orders 279 Judiciary 280 Judiciary 281 Judiciary 282 Judiciary 283 Judiciary 284 Utilities 285 H Energy & Util 286 Natural Res 287 Natural Res 288 Fin Inst & Ins 289 Judiciary 291 Fed & St Aff 292 Judiciary 293 H Transportation 294 Ways & Means 295 Transportation 296 Ways & Means 297 H Elections 298 H Energy & Util 299 H Energy & Util 300 H Transportation 301 Fed & St Aff 302 H Transportation 303 Ways & Means 304 Ways & Means 305 Judiciary 306 H Fed & St Aff 307 H Ag & Nat Res 308 General Orders 309 Ways & Means 310 H Judiciary Sub **311 H Appropriations** 312 H Taxation 313 H Appropriations 314 Commerce 315 Natural Res 316 H Ag & Nat Res 317 Ways & Means

318 Ways & Means	326 H Appropriations	333 Ways & Means
319 Ways & Means	327 Ways & Means	334 Assess & Tax
320 Ways & Means	328 Ways & Means	335 Assess & Tax
321 Ways & Means	329 General Orders	Sub
322 Ways & Means	330 Ways & Means	337 General Orders
323 Transportation	331 Fed & St Aff	338 Assess & Tax
324 H Com & Labor	332 Natural Res	339 Utilities
325 Commerce		

SENATE CONCURRENT RESOLUTIONS CARRIED OVER TO 2010 SESSION

1602 H Taxation 1603 Local Gov 1605 Judiciary 1607 Assess & Tax 1608 Fed & St Aff 1609 Judiciary 1612 Judiciary 1613 Judiciary 1614 H Approp 1615 Judiciary 1616 H Approp 1617 H Gen Orders 1618 H Trans

SUMMARY OF ACTIONS ON SENATE BILLS AND SENATE RESOLUTIONS

Senate Bills

Senate bills introduced in the 2009 session
Senate bills signed by Governor 76 (H Sub for SB 23 contains line item vetoes) Senate bills vetoed by Governor 3 (H Sub for SB 51, SB 171, H Sub for SB 218) Senate bills killed in Senate 3 Senate bills killed in Senate 9 Senate bills carried over to 2010 session 248 Senate bills in Senate Committees 167 Senate bills in House Committees 66 Senate bills on Senate Calendar 6 Senate bills on House Calendar 6 Senate bills in Conference Committees 3
TOTAL
Senate Concurrent Resolutions
Senate concurrent resolutions introduced in 2009 session 19
Senate concurrent resolutions adopted by both houses 6 Senate concurrent resolutions killed in Senate
TOTAL
Senate Resolutions Senate resolutions introduced in the 2009 session
Senate resolutions adopted 95 Senate resolutions killed in Senate 0 Senate resolutions that died in Senate Committees 1 Senate resolutions that died on Senate Calendar 1
TOTAL

Status of Bills and Resolutions

Senate bills signed by the governor: Nos. 1, 5, 8, 9, 11, 14, 16, 19, H Sub for Sub 23, Sub 28, 29, 33, 34, 35, 38, 39, 40, 41, 44, 45, 46, 50, 53, 60, 61, 64, 66, 68, 70, 72, 77, 78, 80, 82, 84, 85, 86, 87, H Sub 91, 97, H Sub 98, 102, 108, 115, 120, 122, 123, 132, 134, 135, 137, H Sub 145, 148, 154, 156, 158, 160, 161, 163, H Sub 168, 175, 178, 187, 203, 212, 219, 225, 228, 237, H Sub 238, 240, 253, H Sub 257, 275, 290, 336

Senate bills line item vetoed by governor: No. H Sub for Sub 23

Senate bills vetoed by governor: Nos. H Sub 51, 171, H Sub 218

Senate bills published in Kansas register: Nos. 8, 9, 14, H Sub for Sub 23, 35, 39, 44, 46, 77, 80, 84, 108, 120, 148, 161, H Sub 168, 219, 275, 336

Senate resolutions adopted: Nos. 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1829, 1830, 1831, 1832, 1833, 1834, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897

Senate concurrent resolutions adopted by both Houses: Nos. 1601, 1604, 1606, 1610, 1611, 1619

Senate bills killed: Nos. H Sub 31, 37, Sub 89, 105, 107, 119, 139, 142, 159, H Sub 162, 183, 242

Senate bills in conference: Nos. 30, 131, H Sub 254

HISTORY OF BILLS

LEGEND

Aging Ag & Nat Res Assess & Tax Com & Labor	Aging and Long-term Care Agriculture and Natural Resources Assessment and Taxation Commerce and Labor
Corr & Juv Jus	Corrections and Juvenile Justice
Ec Dev & Tour	Economic Development and Tourism
Ed Budget	Education Budget
Energy & Util	Energy and Utilities
Ethics & Elect	Ethics and Elections
Fed & St Aff	Federal and State Affairs
Fin Inst & Ins	Financial Institutions and Insurance
Health/Hum	Health and Human Services
Local Gov	Local Government
Natural Res	Natural Resources
Pub H & Wel	Public Health and Welfare
Tran/Pub Safe	Transportation and Public Safety Budget
Trans	Transportation
Vet Mltry Sec	Veterans, Military and Homeland Security
Ad Am	Adopted as amended
Con	Concur
Conf Com	Conference Committee
CCR	Conference Committee Report
Enr	Enrolled
Fin Act	Final Action
Gen Orders	General Orders
Н	House
P Am	Passed as amended
Pub	Published in Kansas Register (Effective date printed)
S	Senate
St Bk	Statute Book (July 1, 2009)
Sub	Substitute

HISTORY OF BILLS

APPOINTMENTS, COMMUNICATIONS, CONFIRMATIONS, MESSAGES FROM THE GOVERNOR, SPECIAL EVENTS, GUESTS, REMARKS, SENATE AND JOINT RULES, SPECIAL REPORTS 2009 SENATE JOURNAL

APPOINTMENTS

Reverend Fred S. Hollomon, Topeka, to serve as Chaplain of the Senate, page 3. SR 1801, relating to the organization of the Senate and appointments of the president,

vice president, majority leader, minority leader, secretary and sergeant at arms, page 8. SR 1802, relating to assignment of seats of the Senate, page 8.

COMMUNICATIONS FROM STATE OFFICERS

Secretary of the Senate, Pat Saville, submitting the following communications received during the interim: Executive Directives Nos. 08-388, 08-389, 08-390, 08-391, 08-392, and 08-393, all relating to Authorizing Personnel Transactions and Expenditure of Federal Funds, page 16.

Also, Executive Order No. 2008-06, reformulating the composition of the Kansas Energy Council, page 16.

Kansas Department of Credit Unions, as required by KSA 17-2244(b), reports that a special order has been issued to Salina Municipal Credit Union, Salina, KS, allowing them parity to engage in any activity in which Missouri chartered credit unions operating in Kansas are allowed to perform, page 16.

Kansas Health Policy Authority, per KSA 65-6218, submitted the 2007 Annual Legislative Report, page 16.

Kansas Public Employees Retirement System submitted the Actuarial Report of the Kansas Public Employees Retirement System, June, 2008, page 17.

Kansas Public Employees Retirement System submitted the Annual Report of the Kansas Public Employees Retirement System for the fiscal year ending June 30, 2008, page 17.

Kansas State Treasurer submitted the 2008 Fiscal Year Report for the Kansas State Treasurer Office, page 17.

Kansas Wireless Enhanced 911 Advisory Board (KWEAB), submitted the Wireless Enhanced 911 Annual Report, page 17.

State of Illinois, Office of the Chief Clerk of the House of Representatives, submitted a copy of House Resolution No. 1325, stating that each year in observance of Memorial Day that the Illinois House of Representatives has continued the established memorial tradition of honoring our fallen brethren by reading an annual list of all of the names of those American soldiers, sailors, airmen, and marines from the State of Illinois that have given the ultimate sacrifice in the preceding year since the previous tribute. The copy of the resolution is presented to each of the state legislatures throughout the United States and its territories to encourage their annual participation in this tribute to those Americans who have made the ultimate sacrifice to guarantee our freedom, page 17.

Kansas State Board of Healing Arts, Vinton K. Arnett, Chair, appointed on behalf of the board, John D. "Jack" Confer, Acting Executive Director, page 33.

Kansas Department of Corrections, Roger Werholtz, Secretary, submitted a report detailing the progress of the Kansas Community Corrections Statewide Risk Reduction Initiative and the progress of the individual community corrections programs, page 34.

Pooled Money Investment Board, Elizabeth B. A. Miller, Director of Investments, submitted the Annual Report for Fiscal Year 2008, page 34.

Kansas Water Office, Tracy Streeter, submitted KWO 2009 annual report, page 34.

Kansas Department of Wildlife and Parks, J. Michael Hayden, Secretary, submitted the annual report, page 34.

Kansas Corporation Commission, Doug Louis, Director, Conservation Division, submitted the Conservation Division Abandoned Oil and Gas Well Remediation Site Status Report, page 34.

Kansas, Inc., Gene Argo, Co-Chair, submitted the 2008 Annual Report, page 34.

Kansas Sentencing Commission, Helen Pedigo, Executive Director, submitted the 2009 Report to the Legislature, page 34.

Kansas Adjutant General's Department, Tod M. Bunting, Major General, Kansas National Guard, submitted the 2008 Annual Report, page 43

Kansas Corporation Commission, Commissioners Thomas E. Wright, Chairman; Michael C. Moffet and Joe F. Harkins, submitted a report to the Legislature concerning the availability of Broadband services in the State of Kansas, page 43.

Kansas Electric Transmission Authority, Rep. Carl Dean Holmes, Chairperson, submitted a report of the KETA's third full year of activities, page 43.

Kansas Development Finance Authority, Stephen R. Weatherford, submitted the audited Annual Report for the fiscal year ended June 30, 2008, page 43.

Kansas State Treasurer's Office, Dennis McKinney, State Treasurer, submitted a report assessing the three year pilot period for the Kansas Investments Developing Scholars Matching Grant Program, page 46.

Kansas Corporation Commission, Commissioners Thomas E. Wright, Chairman; Michael C. Moffet and Joe F. Harkins, submitted a report concerning Pay Stations for Utility Payments in the State of Kansas, page 48.

Kansas Substance Abuse Policy Board (SAPB), Russell Jennings, Chair, submitted a copy of the Board's report, page 57.

Kansas Department of Administration, Kent E. Olson, Director, Division of Accounts and Reports, submitted a CD containing the 55th Annual Financial Report of the State of Kansas, page 61.

Kansas Öriminal Code Recodification Commission, Professor Tom Stacy, Chairman, and Ed Klumpp, Vice-Chairman, submitted the 2008 Interim Report to the Kansas Legislature, page 97.

Kansas Attorney General's Office, Camie K. Russell, Director, Abuse, Neglect and Exploitation Unit, submitted a hard copy and CD of the Annual Report to the Legislature for the period July 1, 2007 to June 30, 2008, of the ANE Unit, page 101.

Kansas Corporation Commission, Thomas E. Wright, Chairman, submitted the Annual Report to the 2009 legislature, page 101.

Kansas Guardianship Program, Judge Frank J. Yeoman, Jr., submitted the 2008 Annual Report, page 101.

Office of the State Bank Commissioner, Thomas J. Thull, Bank Commissioner, submitted a report concerning issuance of Special Order 2009-1, page 108.

Kansas Development Finance Authority, Steve Weatherford, President, submitted the 2008 Kansas Debt Study prepared by the Kansas Development Finance Authority, page 108.

Department of Social and Rehabilitation Services and the Department on Aging, Don Jordan, Secretary, SRS, and Kathy Greenlee, Secretary, KDOA, submitted the annual report on the long term care system in Kansas, page 108.

Kansas Corporation Commission, Thomas E. Wright, Chairman, submitted a Report on Price Deregulation, page 114.

Kansas Board of Pharmacy, Debra Billingsley, Executive Secretary, submitted a report concerning the classification of the substance N-Benzylpiperazine (BZP) as a schedule I controlled substance for purposes of the Kansas Controlled Substance Act, page 119.

Kansas Health Policy Authority, Doug Farmer, Director, State Employee Health Plan, submitted a compact disc (cd) containing the Kansas State Employees Health Care Annual Report, page 145.

Kansas Parole Board, Paul Feleciano, Jr., Chairperson, submitted the Annual Report for the Fiscal Year 2008, page 236.

Supreme Court of Kansas, Howard Schwartz, Judicial Administrator, submitted the 2008 Annual Report of the Statement of the Alcohol Drug Safety Action Program, page 283.

Senate President, Stephen R. Morris, re-appointed Joe Tilghman to the Kansas Health Policy Authority, page 287.

Melvin Neufeld, Speaker, House of Representatives, re-appointed Garen Cox to the Kansas Health Policy Authority for a term of four years which shall expire March 15, 2012, page 287.

Kansas Human Rights Commission, William V. Minner, Executive Director, submitted the Annual Report for the Fiscal Year 2008, July 1, 2007 through June 30, 2008, page 293.

Senate President, Stephen R. Morris, reappointed E. J. "Ned" Holland to the Kansas Health Policy Authority, page 327.

Kansas Department of Revenue, Mark S. Beck, Director, Division of Property Valuation, submitted the 2008 Preliminary Real Estate Appraisal/Sales Ratio Study, page 327.

Kansas Advisory Group on Juvenile Justice and Delinquency Prevention, Ward Loyd, Chair, submitted the 2008 Annual Report, page 327.

Commission on Judicial Qualifications, Carol G. Green, Secretary, submitted the Commission's 2008 Annual Report, page 340.

Kansas Technology Enterprise Corporation, Tracy Taylor, KTEC President and CEO, submitted the 2008 KTEC Annual Report, page 482.

Kansas Department of Revenue, Joan Wagnon, Secretary of Revenue, submitted an annual report to the Governor and Legislature estimating the state tax expenditures from income tax credits claimed and sales tax exemptions allowed under the Kansas Enterprise Zone Act, page 591.

Senate President's Office, E. J. "Ned" Holland, Jr., withdrew his nomination for reappointment to the board of directors for the Kansas Health Policy Authority, page 757.

State of Indiana, Indiana General Assembly, Senate Resolution 42, urging the honorable Barack Obama, President of the United States, the President of the Senate, the Majority Leader of the Senate, and the Speaker of the House of Representatives of the United States in Congress assembled, and the President of the Senate and Speaker of the House of Representatives of each State's legislature of the United States of America to cease and desist, effective immediately, any and all mandates that are beyond the scope of their constitutionally delegated power, was received, page 757.

Melvin Neufeld, Speaker, House of Representatives, announced the appointment of Kenneth Daniel to the Kansas Health Policy Authority for a term of four years, page 762.

Kansas Department of Corrections, Roger Werholtz, Secretary of Corrections, submitted the report of the Kansas Department of Corrections State Forfeiture Fund for the period of December 1, 2007 through December 1, 2008, page 770.

CONFIRMATION OF APPOINTMENTS

Consideration of confirmation of appointments, pages 67, 68, 69, 70, 71, 72, 73, 707, 708, 793, 794.

MESSAGES FROM THE GOVERNOR

Submitting for confirmation, Shari Feist Albrecht, Member, Central Low-Level Radioactive Waste Commission; Correne K. Green and Robert B. Van Cleave, Member, State Civil Service Board; John W. Carlin and Sandra Airene Jones Lawrence, Member, Kansas Bioscience Authority; Norman B. Dawson, Member, Pooled Money Investment Board, page 14.

Submitting for confirmation, Kenneth W. Gorman, Member, Public Employee Relations Board; Melvin G. Minor, Michael R. Downing and Winton A. Winter, Jr., Member, State Banking Board; Robert W. Honse, Member, University of Kansas Hospital Authority; Larry S. Shivers, Member, Kansas Agricultural Remediation Board; Lawrence P. Daniels, Member, State Board of Indigent Defense, page 15.

Submitting for confirmation, Gregory Michael Graves, Member, University of Kansas Hospital Authority; Trevor Wohlford, Chief Hearing Officer, Kansas Court of Tax Appeals; Norman F. Steen, Brigadier General, Kansas National Guard; John William Mitchell, Member, Central Low-Level Radioactive Waste Commission; Terry Lee Crowder, Member, Kansas Human Rights Commission; John R. Weber, Member, State Board of Indigent Defense Services; J. Thomas Thull, Member, Pooled Money Investment Board, page 15. Leslie W. Evans, Member, Kansas Electric Transmission Authority; Sharon Lindenbaum, Member, University of Kansas Hospital Authority; Patricia Bossert and John A. Pilla, Member, Kansas, Inc.; Dr. Bruce D. Dallman, Member, Kansas Technology Enterprise Corporation, page 16.

Executive Directive No. 08-394, Authorizing Expenditure of Federal Funds as recommended by the President of the Kansas Board of Regents, page 33.

Pursuant to K.S.A. 22-3703, a report of the only pardon granted by the Governor for the preceding year, Benito Carrillo, Jr. II, page 33.

Executive Directive No. 09-395, Authorizing Expenditure of Federal Funds, page 148.

Veto message regarding **House Substitute for Substitute for SB 23** on the Fiscal Year 2009 budget, approved by the governor; except line item vetoes: Sec. 37(t), Sec. 53(a) and Sec. 53(b), Sec. 66(e), Sec. 86(b) and Sec. 86(h), page 199. Veto sustained, page 265.

Executive Directive No. 09-396, Authorizing Expenditure of "Federal Funds, page 340. Submitting for confirmation, Alexander Duckworth, Brigadier General, Kansas National

Guard; Rachel Reiber, Member, Kansas Public Employees' Retirement System Board of Trustees; Michael Braude, Member, Kansas Public Employees' Retirement System Board of Trustees; Jeffrey E. Lewis, Member, Kansas Human Rights Commission, page 532.

Veto message regarding **House Substitute for SB 218** on abortion in Kansas, page 757. Motion to override the veto failed, veto sustained, page 854.

Executive Directive No. 09-397, Authorizing Expenditures of Federal Funds, page 902. Veto message regarding **House Substitute for SB 51** on property annexation, page 902. Veto sustained, page 904.

Veto message regarding **Senate Bill 171** on advance voting ballots, page 903. Veto sustained, page 904.

SPECIAL EVENTS, REMARKS AND GUESTS

Reverend Fred S. Hollomon, Topeka, to serve as Chaplain of the Senate, page 3.

President Morris introduced Dr. Terry Lee Mills, President of the Kansas Academy of Family Physicians. The Academy sponsors the doctor of the day program and provides daily assistance for health concerns in the Capitol during the session, page 8.

Also recognized were Jody Kirkwood, Sergeant-at-Arms; Roger Zlatnik, Assistant Sergeant-at-Arms; George Sommers, Assistant Sergeant-at-Arms, page 8.

Second Lieutenant Don Cackler will again be representing the Kansas Highway Patrol in the Senate, page 8.

President Morris introduced the new reader, Paul Cope, Pittsburg, Kansas, a third year law student at Washburn University, page 8.

President Morris introduced Carl Merril Lovendahl, Doorkeeper, and Rose Marie Glatt and Shirley Lamott, Journal Clerks, page 32.

President Morris congratulated Sue Krische on her retirement. Introduced were her husband Larry Krische, their eldest son John, his wife Lisa and their baby boy Ben; their twin sons Matt and Dan, with Dan's wife Amanda, their twin daughters Ellen and Julia and baby boy Sam, page 39.

Senator Haley rose on a point of personal privilege in honor of Dr. Martin Luther King, Jr., page 41.

Senator Schodorf introduced the 2009 Kansas Teacher of the Year and the 2009 Kansas Regional Teachers of the Year who were guests and were recognized, page 49.

Senator Haley's remarks concerning President Barack Obama, page 49.

Guest chaplain Dr. Robert Meneilly, Pastor Emeritus, Village Presbyterian Church, Prairie Village, Kansas, page 53.

Senator V. Schmidt introduced First Lieutenant Eric Hollingsworth, Commander of the Recruit Sustainment Program and Operations Operator, Kansas National Guard, page 54.

Senator Barnett introduced Jesse P. Solis and Randolph Cabral, who presented a braille American flag to President Morris for display in the Capitol. Also introduced were Dr. Marshall Havenhill, Matt Zimmerman, Bob Agler, Jeanine McKenna, John Clark, Gary Eichorn, James Reddick, Penny Oliver and Patrick Hayes, page 62. President Morris introduced Elena Pripisnova and Tatevik Avagyan, of Russia, who were visiting in the Capitol, page 74.

A special presentation for Kansas Day in recognition of the upcoming celebration of Lincoln's 200th birthday. The historical presentation was given by Tom Leahy of Conway Springs, as Abraham Lincoln, page 97.

Senator Kultala introduced Leavenworth guests: Heather Morgan, Scott Miller, Ken Bernard, Lisa Weekly, Terry Weekly and Laura Gasbarre, page 101.

Senator D. Schmidt introduced the West Elk High School boys' track and field team for winning the 2008 Class 2A State Championship. Team members were Kyle Huntington, Charlie Hall, Shane Hall, James Lear, Tanner Weber, Taylor Lowe, Bailey Adams, Sonny Lee, Lucas Simmons, C. J. Madison, Jason Ledford, Head Coach Pat Simmons and Assistant Track Coach Pat Simmons, page 102.

Senator Barnett introduced Justin Cessna and his son, Joshua, along with Dr. Bernita Berntsen, Dr. James Hamilton and Michael Schrader, page 103

Senator V. Schmidt introduced and honored Norma Grubb for winning Good Morning America Weekend's "Best Slice Challenge," page 128.

Senator V. Schmidt introduced Washburn Rural High School volleyball team members for winning their third straight state championship: Shannon Majors, Kacia Turner, Ashley Yoder, Jamie Branch, Lindsay Gifford, Alexa Bordewick, Kelsey Lewis, Jenny Hunt, Rachel Kueck, Emily Conklin, Dani Musselman, Whitney Gifford and Maddie Baum; Assistant Coach Nikki Noe; Head Coach Kevin Bordewick; Dr. Brenda Dietrich, Ed Raines and Penny Lane, page 129.

Senator Emler introduced the Residential Construction Management Team from Mc-Pherson High School. Team members were Craig Lolling, Courtney Huber, Preston Mossman, Taylor Stevens and Michael Bruns; Coach Arlan Penner and Courtney Huber's mother, Julie Huber, page 130.

Guest chaplain, Rev. Leon Parker, First Baptist Church of Lyndon, page 143.

Senators Lynn and Pilcher-Cook introduced Gene Amos and his wife Margaret; children Joni Pflumm, Gregg Amos and Amy Ruo; son-in-law John Ruo; grandchildren Toni and Philip Ruo; sister Mona Upton and friends, page 163.

Guest chaplain Rev. Shirley D. Heermance, Senior Pastor, Christ Our Redeemer African Methodist Episcopal Church, Kansas City, Missouri, page 179.

Senator McGinn introduced Senator Norma Daniels' husband, Dr. Robert M. Daniels, and other family members: Kathy Daniels, Sister Susanne Jeanne Daniels, Dr. Patricia Petrakis, Jo Jo Petrakis, Chris Porter, Bob Daniels, Debbie Daniels and Nikki Daniels, page 180.

Senator V. Schmidt introduced Best Buy, Inc., employees from Manhattan: Cheryl Lupton, Tom Leopold, Tony Frieze, Bruce Huford, Alison Scott Pugh, Kyle Mills, Ron James and Joshua Cavner, page 181.

Senator D. Schmidt introduced guests: Rick Muench, President and CEO of Wolf Creek Nuclear Operating Corporation; Warren Wood, General Counsel; Bill Moore, President and CEO of Westar and Stephen Parr, Executive Vice President and CEO of Kansas Electric Power Cooperative, page 181.

Guest chaplain Father Tim Haberkorn, Sacred Heart-St. Joseph Catholic Church, Topeka, page 189.

Senator Brownlee introduced and recognized Katie Weil and Audrey Baker as recipients of the 2009 Horizon Award, page 221.

Senator Brownlee introduced and commended Dr. Suzanne Blair for earning the 2008 American Star of Teaching award for Kansas, page 222.

Senator Masterson introduced Miss Kansas, Emily Deaver, page 241.

Senator Marshall introduced Chuck Broyles, Pittsburg State University head football coach, page 245.

Senator Marshall recognized Coach Tim Beck, Pittsburg State University assistant head football coach and offensive coordinator, and introduced Dr. Tom Bryant, President of Pittsburg State University, page 246.

HISTORY OF BILLS

Senator Emler recognized the Sterling High School debate team: Sam Leake, Eric Hostetler, Daniel Skucius, Brett Smith, Anna Brashear and Head Coach Betsy Dutton, page 254.

Guest chaplain Rev. Tommy Scott, Sr., pastor, Community Church, Topeka, page 256. Guest chaplain Rev. Mike Roy, Metro East Baptist Church, Wichita, page 259.

Guest chaplain Rev. Dr. Donald C. Bakely, United Methodist Church, Kansas City, Kansas, page 261.

Senator Kultala paid tribute to Major Ronnard Green, Major Janene Marshall-Gatling, Major Mark Winkler and Major Chris Whelan, page 265.

Senator Francisco introduced Jana Mackey's mother, Christie Brungardt, and stepfather, Curt Brungardt, page 266.

Guest chaplain Pastor Jim Sanborn, Principal, Emporia Christian School, Emporia, page 282.

Senator V. Schmidt introduced Avery Clifton, Gatorade Cross Country Runner of the Year for Kansas. She was accompanied by Bob and Andrea Clifton, her parents, Mr. and Mrs. Keith Clifton and Mr. and Mrs. Paul Moore, her grandparents, as well as Penny Lane and Coach Scott Shufelberger, page 283.

Senator Barnett introduced the 2009 Kansas Master Teachers who were present, page 284.

Senator Brownlee recognized the Kansas Small Business Development Center's 2008 Emerging and Existing Businesses of the Year owners who were guests, page 287.

Senator Ostmeyer rose on a point of personal privilege to introduce the senior class of Northern Valley High school and their teacher, Jason Dibble, page 288.

Senator Kultala rose on a point of personal privilege to introduce, on behalf of herself and Senator Holland, the 2008-2009 Class of Southern Leavenworth County Leadership Development group, page 292.

Senator Apple rose on a point of personal privilege to introduce the Miami County Leadership Class, page 293.

Senator Emler rose on a point of personal privilege to introduce the Hope High School Senior Government Class and teacher, page 293.

Senator Lynn rose on a point of personal privilege to introduce Alexis Radil, Ashley Holverson, Don Seifert and Darren Friendt, who were guests representing the Olathe Convention Visitors Bureau, page 300.

Senator Faust-Goudeau introduced Felix Zacharias, Wichita, who was named to the Executive Board of the University of Kansas Student Alumni Association for 2009-2010 as Vice President of University Relations, page 301.

Senator McGinn recognized Wendy M. Schrag, Christine Seaton and Karl Bauder, who were representing the Kansas Kidney Association, page 302.

Guest chaplain Rev. Howard Cupp, Westside Christian Church, Topeka, page 324.

Senator McGinn rose on a point of personal privilege to introduce Carolyn Lindsey, Mike Leck, Christin Gillman, Hannah Gillman, Amanda Gillman, Micah Gillman, Jamie Gillman, Chelsea Moore, Calvary Lyle and Gabe Butel, who were guests representing the Friends of the Great Plains Nature Center publishing the book Kansas Critters: Birds; a Wildlife Book written and illustrated by Kansas Kids, page 324.

Senator D. Schmidt welcomed a delegation from Iola commemorating the sesquicentennial of the founding of the City of Iola, Kansas, page 327.

Senator Apple rose on a point of personal privilege to introduce a 4-H group from Franklin County who was in the Capitol to study citizenship, page 336.

Senator Taddiken rose on a point of personal privilege to introduce Don and Dorothy Kramer from Marysville. Mr. Kramer is the brother of the Secretary of the Senate, Pat Saville, page 339.

Senator Kultala rose on a point of personal privilege to introduce Jeff Wingo, Gerald Henderson, Sue Pelletier, Joey Studinka, Dan Wesel, Jeff Porter, Gordon Cunningham, Nate Weidum, Nolan Sunderman, Rick Dodson, Joe Sebes, Karen Harris and Cassandra Lincoln, who were guests representing the Leadership Leavenworth Lansing Program, page 339.

Senator Barnett rose on a point of personal privilege to introduce Rod Bremby, Bill Bruning, Helen Connors, Jeff Ellis, Melissa Hungerford, Ron Liebman, Julie Roth, Gary Caruthers, Christina Stephan, Victoria Wangia, Marcia Nielsen and Barbara Langner, a delegation of health professionals, page 357.

Senator Haley rose on a point of personal privilege to introduce his daughter, Mariah Danielle Haley (13), and son, Daniel Jordan Haley (12), who are serving as Senate Pages, page 358.

Senator Marshall introduced Ray Shepherd's son, David and his wife, Sharon, granddaughter, Molly Mosher, great-granddaughter, Grace Mosher and a friend, Don McNeely, page 479.

Senator Kelly introduced Hayden High School girls golf team: Gracie Bagley, Janet Lierz, Courtney Koehn, Morgan Trobough, Lauren Falley and Brooke LaRue, page 479.

Senator Apple rose on a point of personal privilege to introduce the family of Kelsey Smith in reference to the Kelsey Smith Act. The following are family: Greg and Missey Smith, parents, Stevie Hockersmith, sister and Lindsey and Ryan Evans, sister and brotherin-law, page 480.

Senator V. Schmidt introduced the Washburn Rural High School girls basketball team members, Allison Babcock, Alexa Bordewick, Taylor Zordel, Rachel Ladenburger, Kelly Wayner, LaSharra Riley, Jessica Aschenbrenner, Kelsey Lewis, Katie Scott, Maggie Holmberg, Katlyn Aschenbrenner, Paige Ladenburger; Coach Bill Annan; Coach Kevin Bordewick; and Penny Lane, Athletic Director, page 534.

Senator Hensley introduced Highland Park High School boys basketball team members, A. J. Downing, Shaka Thomas, Spencer Moore, Canon Fields, Joseph Wakefield, DeMarco Ewing, V. R. Barber, Jeramiah Brooks, Elijah Tyree, DaVonte Grant, Rico Richardson, Desmond Ogles, Michael Copeland; Ken Darting, Head Coach; Jim Bauersfeld, Mike Calhoun, Michael Jackson and Reid Hein, Assistant Coaches; LeOra Birch, Chris Cushinberry, Chanaya Kershner, Isiah Smith and Trense Wheeler, Team Managers; Dale Cushinberry, Principal and Patrick Wood, Board Member, page 536.

Senator Marshall rose on a point of personal privilege to introduce Ashley Elnicki, Venessa Lee, Emily Walters, Eddie Penner, Jacob Dvorak and Katie Engelland, who were guests representing Pittsburg State University involved in student government, page 575.

Senator Marshall introduced Charles R. "Dick" Webb's wife, Kaye Lynne; daughter, Susan Lundy and son, Rick Webb, page 610.

Senator McGinn introduced Wichita Heights High School boys basketball team members: Dorrian Roberts, Austin Bahner, Thomas Bland, Steven VanLooy, Darrell Dempsey, Keith Riley, Dreamius Smith, Evan Wessel, E. J. Dobbins, Jay Bradley, Perry Ellis and Terrence Moore. Also in attendance were managers: Kyle Coffman, Aaron Roberts and Austin Sheppard, along with Head Coach Joe Auer and Assistant Coaches Ric Vix, Bryan Chadwick and Tyler Richardson, page 610.

Senator Holland introduced the following members of the Basehor-Linwood basketball team: Ryan Murphy, Colin Murphy, Ryan O'Donnell, Evan Theno, Jake Hattock, Richie O'Donnell, Clint Schierbaum, Mark Vaca, Tanner Bowers, Justin Gripka, Anthony Pierce and Chandler Schaake. Also in attendance were Sherry Reeves, principal, Mike McBride, head coach and assistant coaches Chad Harvey and Daniel Hermon, page 758.

Senator V. Schmidt introduced Marie Clement, Ms. Wheelchair Kansas 2009, along with her family: Robert Clement, husband; Chance Clement, youngest son; Nick Wilder, middle son; and Thamar Morris, mother. Also introduced were Amanda Steiner, Ms. Wheelchair Kansas 2008 and Carrie Greenwood, Ms. Wheelchair Kansas 2004, page 758.

Jamie Lane was recognized for her volunteer efforts and she presented a framed copy of the resolution to Marie Clement, page 758.

Senator V. Schmidt introduced Dr. Daniel Reynolds, Katherine Reynolds, wife, and sons Ethen and Colby Reynolds. Also in attendance were guests: Scott Brown and Ashley Bailey, page 759.

Senator Francisco introduced the following members of the KU Honored Debate team: Brett Bricker, Nate Johnson and Chris Stone, debaters; Scott Harris, Head Coach; Sarah Topp, Kelly Winfrey and Athena Murray, assistant coaches, page 760. Guest chaplain Rev. Ben Sauceda, Associate Pastor, Temple Baptist Church, Wichita, Kansas, page 765.

Senator Holland introduced Margaret Pearson, wife of Senator James B. Pearson. Also in attendance was guest Dr. Daniel Lambert, accompanying Margaret Pearson, page 766.

Senator Morris introduced Shalee Lehning, Kansas State guard, and congratulated her on her basketball accomplishments. Deb Patterson, coach and Sue Petersen were also guests in attendance, page 767.

Senator Umbarger introduced Ron Wood for his community service and volunteer efforts in the Chetopa area and beyond. Also in attendance were guests William P. Buckley, Charles P. Thompson and Charles B. Fritz, page 767.

Senator Brownlee introduced Lucas Vincent, Olathe North junior, for his wrestling accomplishments. Also in attendance was his coach and Lucas' parents, Mr. and Mrs. Vincent, page 768.

Senator Brownlee introduced Clark Thomas, Olathe Northwest freshman, for his 6A Kansas Diving Championship, page 768.

Senator Brownlee introduced the Olathe East High School boys swimming team and Head Coach Dave Youker, page 769.

Senator Brownlee introduced the Olathe South High School boys soccer team and coach Will Stoskopf, page 769.

Senator Wysong introduced the Johnson County Community College Women's Half Marathon Team: Francis Gipson, Temer Yimer, Heather Kochie, Emily Crews, Sarah Stark, Kayla Harris, Haley Snow, Roxanna Cabrera and Renae Dupree. Also introduced were Carl Heinrich, Director of Athletics and Coaches Mike Bloemker and Brian Batliner, page 822.

Senator Wysong introduced Terry Calaway, President of Johnson County Community College, upon the 40th anniversary of the college, page 823

Senator Lynn introduced and congratulated Ed and Judy Colson upon their combined 60 years service in the Olathe District Schools. Members of the Colson family, friends and students were also in attendance, page 856.

Senator Lynn introduced and congratulated the Olathe North Culinary Team: Ryne Schnabel, Jamie Lyons, Keelan O'Boyle, Christopher Roudebush, Juan Jasso-Mendoza and their instructor, Chef Mike Chrostowski, page 857.

Senators paid tribute to Dr. Robert E. Hemenway, thanking him not only for his contributions to those associated with the University of Kansas, but to the entire state of Kansas, page 872.

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Joint Rules of the Senate and House of Representatives, SCR 1601, page 9. Adopted, page 35.

Senate Rules, SR 1817, page 149. Adopted, page 161.

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Majority Party Caucus report from Senator Stephen Morris, Chairperson, submitting names of officers and members of the Committee on Organization, Calendar and Rules, page 5.

Minority Party Caucus report from Senator Tom Holland, Chairperson, submitting names of officers of the Minority Party, page 5.

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- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.
- SR 1896 Honoring University of Kansas Chancellor Robert E. Hemenway.

Kelly, Laura

- S 160 Kansas minimum wage law; minimum wage increase.
- S 201 Display of U.S. flag at half-staff for veterans killed.
- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1611 Constitutional amendment concerning individual right to bear arms.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SR 1804 Congratulating Sue Krische.
- SR 1806 Congratulating Shirley Higgins.
- SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
- SR 1835 Urging the Government of Turkey to respect the Ecumenical Patriarchate and to uphold religious rights.
- SR 1844 Encouraging participation in Kansas Public Health Week.

Kelly, Laura—Concluded

- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SB 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1860 Congratulating the Hayden High School girls' golf team.
- SR 1866 Congratulating the Highland Park High School boys' basketball team.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.
- Congratulating Nicole Wayant. SB 1892
- SR 1897 Recognizing the 90th anniversary of the passage of the 19th Amendment to the United States Constitution.

Kelsey, Dick

- S 24 Kansas insurance score act, repeal of.
- Display of U.S. flag at half-staff for veterans S 201 killed.
- S 206 Kansas insurance score act, defining personal insurance.
- S 209 Teachers; nontraditional licensure.
- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1611 Constitutional amendment concerning individual right to bear arms.
- SCR 1612 Constitutional amendment to have supreme court justices appointments subject to consent of the senate.
- SCR 1613 Constitutional amendment concerning appropriation of money by the legislative branch.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual .25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1615 Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SR 1804 Congratulating Sue Krische.
- SR 1806
- Congratulating Shirley Higgins. Commemorating the bicentennial of President SB 1819 Abraham Lincoln's birth.
- SB 1828 Urging the Kansas Congressional Delegation to oppose the Employee Free Choice Act.
- SR 1835 Urging the Government of Turkey to respect the Ecumenical Patriarchate and to uphold religious rights.
- SR 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers
- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding. SR 1869 Congratulating the Kansas Medical Society on its
- 150th Anniversary.
- SR 1873 Congratulating the Wichita Heights boys' basketball team.

Kultala, Kelly

S 160 Kansas minimum wage law; minimum wage increase.

Kultala, Kelly—Concluded

- S 210 Counties; election commissioners; elected. SCB 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- Urging the Environmental Protection Agency to SCB 1610 authorize use of higher blends of ethanol.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SCR 1618 Urging the legislature to formulate and implement a comprehensive transportation plan by the 2010 legislative session.
 - Congratulating Sue Krische. SR 1804 SR 1806 Congratulating Shirley Higgins.
 - SB 1819 Commemorating the bicentennial of President
 - Abraham Lincoln's birth.
 - SR 1835 Urging the Government of Turkey to respect the Ecumenical Patriarchate and to uphold religious rights.
- SR 1844 Encouraging participation in Kansas Public Health Week.
- SB 1846 Congratulating the 2009 Kansas Master Teachers
- SB 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- Congratulating the Kansas Medical Society on its SR 1869 150th Anniversary.
- Recognizing the 90th anniversary of the passage SB 1897 of the 19th Amendment to the United States Constitution

Lee, Janis

- Regulating traffic, concerning golf carts. S 37
- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCB 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
 - SR 1804 Congratulating Sue Krische.
 - SB 1806 Congratulating Shirley Higgins.
 - SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
 - SB 1835 Urging the Government of Turkey to respect the Ecumenical Patriarchate and to uphold religious rights.
- SR 1842 In memory of Jana Mackey and calling Kansans to serve others.
- SB 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SB 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1861 Congratulating the Smith Center High School football team.
- SR 1862 Congratulating the Smith Center High School wrestling team.
- SR 1863 Congratulating Jered Rice.
- Congratulating the Kansas Medical Society on its SB 1869 150th Anniversary.
- SB 1897 Recognizing the 90th anniversary of the passage of the 19th Amendment to the United States Constitution.

Lynn, Julia

- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1611 Constitutional amendment concerning individual right to bear arms.
- SCR 1612 Constitutional amendment to have supreme court justices appointments subject to consent of the senate.
- SCR 1613 Constitutional amendment concerning appropriation of money by the legislative branch.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual.25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1615 Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SR 1804 Congratulating Sue Krische.
- SR 1806 Congratulating Shirley Higgins.
- SR 1818 Recognizing Gene Amos.
- SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
- SR 1828 Urging the Kansas Congressional Delegation to oppose the Employee Free Choice Act.
- SR 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.
- SR 1881 Congratulating Lucas Vincent and Chaz Lawrence.
- SR 1882 Congratulating Clark Thomas.
- SR 1883 Congratulating the Olathe East High School boys' swimming team.
- SR 1885 Congratulating the Olathe East High School girls' gymnastics team.
- SR 1893 Congratulating Ed and Judy Colson.
- SR 1894 Congratulating the Olathe North Culinary Arts students.
- SR 1897 Recognizing the 90th anniversary of the passage of the 19th Amendment to the United States Constitution.

Marshall, Bob

- S 201 Display of U.S. flag at half-staff for veterans killed.
- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1611 Constitutional amendment concerning individual right to bear arms.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual.25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1615 Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights.

Marshall, Bob—Concluded

- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SCR 1618 Urging the legislature to formulate and implement a comprehensive transportation plan by the 2010 legislative session.
 - SR 1804 Congratulating Sue Krische.
 - SR 1806 Congratulating Shirley Higgins.
 - SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
- SR 1828 Urging the Kansas Congressional Delegation to oppose the Employee Free Choice Act.
- SR 1832 Congratulating Pittsburg State football Head Coach Chuck Broyles.
- SR 1833 Congratulating Pittsburg State offensive coordinator Tim Beck.
- SR 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SR 1858 In memory of Ray Shepherd.
- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.
- SR 1872 In memory of Charles R. "Dick" Webb.
- SR 1896 Honoring University of Kansas Chancellor Robert E. Hemenway.

Masterson, Ty

- S 24 Kansas insurance score act, repeal of.
- S 197 Property taxation; 2% limit on valuation increases.
- S 201 Display of U.S. flag at half-staff for veterans killed.
- S 206 Kansas insurance score act, defining personal insurance.
- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1611 Constitutional amendment concerning individual right to bear arms.
- SCR 1612 Constitutional amendment to have supreme court justices appointments subject to consent of the senate.
- SCR 1613 Constitutional amendment concerning appropriation of money by the legislative branch.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual.25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1615 Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SR 1804 Congratulating Sue Krische.
- SR 1806 Congratulating Shirley Higgins.
- SR 1816 Congratulating the Butler Community College football team.
- SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
- SR 1828 Urging the Kansas Congressional Delegation to oppose the Employee Free Choice Act.

Masterson, Ty—Concluded

- SR 1831 Congratulating Emily Deaver.
- SR 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.
- SR 1873 Congratulating the Wichita Heights boys' basketball team.

McGinn, Carolyn

- S 175 School districts; transfer of moneys to community foundations.
- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1611 Constitutional amendment concerning individual right to bear arms
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual.25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1615 Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SR 1804 Congratulating Sue Krische.
- SR 1806 Congratulating Shirley Higgins.
- SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
- SR 1822 In memory of Norma Daniels.
- SR 1828 Urging the Kansas Congressional Delegation to oppose the Employee Free Choice Act.
- SR 1835 Urging the Government of Turkey to respect the Ecumenical Patriarchate and to uphold religious rights.
- SR 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SR 1849 Designating March as Kidney Awareness Month.
- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1868 Designating Kansas Cerebral Palsy Awareness Day.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.
- SR 1873 Congratulating the Wichita Heights boys' basketball team.
- SR 1886 Supporting an EcoPartnership between Wichita, Kansas and Wuxi, China.
- SR 1897 Recognizing the 90th anniversary of the passage of the 19th Amendment to the United States Constitution.

Morris, Stephen

SCR 1601 Joint rules for the Senate and the House of Representatives, 2009-2010.

Morris, Stephen—Concluded

- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol. SCR 1611 Constitutional amendment concerning individual
- right to bear arms. SCR 1614 Constitutional amendments; creating a budget
- stabilization fund in the state treasury; annual.25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1615 Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SCR 1619 Adjournment of the 2009 regular session of the legislative session.
 - SR 1801 Organization of the Senate, 2009.
 - SR 1802 Assignment of seats in Senate, 2009.
 - SR 1803 Rules of the Senate, 2009-2012.
 - SR 1804 Congratulating Sue Krische.
 - SR 1806 Congratulating Shirley Higgins.
 - SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
 - SR 1828 Urging the Kansas Congressional Delegation to oppose the Employee Free Choice Act.
 - SR 1844 Encouraging participation in Kansas Public Health Week.
 - SR 1846 Congratulating the 2009 Kansas Master Teachers.
 - SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
 - SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.
- SR 1870 Commemorating the twentieth anniversary of the sister-state relationship between Kansas and the Province of Taiwan, Republic of China.
- SR 1875 Congratulating Marie Clement.
- SR 1879 Congratulating Shalee Lehning.
- SR 1887 Honoring and thanking Emalene Correll.

Ostmeyer, Ralph

- S 171 Elections, advance voting ballot security; candidate filing deadlines; ballots for military and overseas voters; electronic mail ballots, when allowed.
- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1611 Constitutional amendment concerning individual right to bear arms.
- SCR 1612 Constitutional amendment to have supreme court justices appointments subject to consent of the senate.
- SCR 1613 Constitutional amendment concerning appropriation of money by the legislative branch.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual .25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1615 Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights.

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Ostmeyer, Ralph—Concluded

- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SR 1804 Congratulating Sue Krische.
- SR 1806 Congratulating Shirley Higgins.
- SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
- SR 1820 Congratulating the Norton Community High School girls' track and field team.
- SR 1828 Urging the Kansas Congressional Delegation to oppose the Employee Free Choice Act.
- SR 1835 Urging the Government of Turkey to respect the Ecumenical Patriarchate and to uphold religious rights.
- SR 1836 Congratulating the Goodland High School girls' golf team.
- SR 1837 Congratulating the Scott Community High School boys' track and field team.
- SR 1838 Congratulating the Ness City High School boys' cross-county team.
- SR 1839 Congratulating the Greeley County High School girls' cross-country team.
- SR 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SR 1853 Congratulating the Greeley County High School Scholars Bowl Team.
- SR 1854 Congratulating the Rawlins County High School girls' track team.
- SR 1855 Congratulating the Colby High School girls' tennis doubles team.
- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1865 Proclaiming April 17 and 18 as "Kansas Exoduster Colonies' Days".
- SR 1867 Congratulating the Colby High School wrestling team.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.

Owens, Tim

- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual .25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SR 1804 Congratulating Sue Krische.
- SR 1806 Congratulating Shirley Higgins.
- SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
- SR 1828 Urging the Kansas Congressional Delegation to oppose the Employee Free Choice Act.
- SR 1835 Urging the Government of Turkey to respect the Ecumenical Patriarchate and to uphold religious rights.
- SR 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.

Owens, Tim—Concluded

- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.
- SR 1896 Honoring University of Kansas Chancellor Robert E. Hemenway.

Petersen, Mike

- S 197 Property taxation; 2% limit on valuation increases.
- S 201 Display of U.S. flag at half-staff for veterans killed.
- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1611 Constitutional amendment concerning individual right to bear arms.
- SCR 1612 Constitutional amendment to have supreme court justices appointments subject to consent of the senate.
- SCR 1613 Constitutional amendment concerning appropriation of money by the legislative branch.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual .25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1615 Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
 - SR 1804 Congratulating Sue Krische.
- SR 1806 Congratulating Shirley Higgins.
- SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
- SR 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.
- SR 1873 Congratulating the Wichita Heights boys' basketball team.

Pilcher-Cook, Mary

- S 176 State board of regents; elected.
- S 197 Property taxation; 2% limit on valuation increases.
- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1609 Urging the Congress and the President to refrain from exercising powers beyond those constitutionally delegated.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1611 Constitutional amendment concerning individual right to bear arms.
- SCR 1612 Constitutional amendment to have supreme court justices appointments subject to consent of the senate.

Pilcher-Cook, Mary-Concluded

- SCR 1613 Constitutional amendment concerning appropriation of money by the legislative branch.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual .25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1615 Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SR 1804 Congratulating Sue Krische.
- SR 1806 Congratulating Shirley Higgins.
- SR 1818 Recognizing Gene Amos.
- SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
- SR 1828 Urging the Kansas Congressional Delegation to oppose the Employee Free Choice Act.
- SR 1835 Urging the Government of Turkey to respect the Ecumenical Patriarchate and to uphold religious rights.
- SR 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.
- SR 1897 Recognizing the 90th anniversary of the passage of the 19th Amendment to the United States Constitution.

Pyle, Dennis

- S 186 Vacancy in office of lieutenant governor; notice of resignation from office of governor or lieutenant governor.
- S 192 Income tax credit for certain taxpayers on motorfuel taxes paid.
- S 193 Vacancy in office of United States senator; procedure.
- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1611 Constitutional amendment concerning individual right to bear arms.
- SCR 1612 Constitutional amendment to have supreme court justices appointments subject to consent of the senate.
- SCR 1613 Constitutional amendment concerning appropriation of money by the legislative branch.
- SCR 1615 Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights.
- SR 1804 Congratulating Sue Krische.
- SR 1806 Congratulating Shirley Higgins.
- SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
- SR 1828 Urging the Kansas Congressional Delegation to oppose the Employee Free Choice Act.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.

Reitz, Roger

S 160 Kansas minimum wage law; minimum wage increase.

Reitz, Roger—Concluded

- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual.25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
 - SR 1804 Congratulating Sue Krische.
 - SR 1806 Congratulating Shirley Higgins.
 - SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
 - SR 1835 Urging the Government of Turkey to respect the Ecumenical Patriarchate and to uphold religious rights.
 - SR 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SR 1856 Resolution designating Diabetes Alert day.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.

Schmidt, Derek

- S 1 William Inge Theatre Festival designated as the official theatre festival of the state.
- S 5 Designating part of U.S. 160 as the 1011th Quartermaster Co. U.S. Army Reserve memorial highway.
- S 6 Professional fund raisers; required disclosures.
- S 19 Concealed weapons; U.S. attorneys, attorney general, county and district attorneys and assistants.
- S 201 Display of U.S. flag at half-staff for veterans killed.
- S 211 Providing journalists with privilege concerning the disclosure of certain information. CR 1601 Joint rules for the Senate and the House of Rep-
- SCR 1601 Joint rules for the Senate and the House of Representatives, 2009-2010.
- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1611 Constitutional amendment concerning individual right to bear arms.
- SCR 1612 Constitutional amendment to have supreme court justices appointments subject to consent of the senate.
- SCR 1613 Constitutional amendment concerning appropriation of money by the legislative branch.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual.25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1615 Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SCR 1619 Adjournment of the 2009 regular session of the legislative session.
 - SR 1801 Organization of the Senate, 2009.
 - SR 1802 Assignment of seats in Senate, 2009.
 - SR 1803 Rules of the Senate, 2009-2012.
- SR 1804 Congratulating Sue Krische.
- SR 1806 Congratulating Shirley Higgins.

Schmidt, Derek—Concluded

- SR 1808 Congratulating the West Elk High School boys' track and field team.
- SR 1813 Congratulating the Independence High School boys' tennis team.
- SR 1817 Rules of the Senate, 2009-2012.
- SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
- SR 1824 Recognizing and congratulating Wolf Creek's license renewal.
- SR 1828 Urging the Kansas Congressional Delegation to oppose the Employee Free Choice Act.
- SR 1835 Urging the Government of Turkey to respect the Ecumenical Patriarchate and to uphold religious rights.
- SR 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SR 1852 Commemorating the sesquicentennial of Iola, Kansas
- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1865 Proclaiming April 17 and 18 as "Kansas Exoduster Colonies' Days".
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.
- SR 1870 Commemorating the twentieth anniversary of the sister-state relationship between Kansas and the Province of Taiwan, Republic of China.
- SR 1878 In memory of Senator James B. Pearson.
- SR 1887 Honoring and thanking Emalene Correll.

Schmidt, Vicki

- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual .25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SR 1804 Congratulating Sue Krische. SB 1806
- Congratulating Shirley Higgins.
- Encouraging participation in the American Heart SR 1811 Association's Go Red for Women campaign. SR 1812 Congratulating Norma Grubb.
- Congratulating the Washburn Rural High School SB 1814 volleyball team on its State Championship.
- SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
- Recognizing and thanking Best Buy Inc. and its SB 1823 Manhattan store
- Encouraging participation in Kansas Public Health Week. SR 1844
- SR 1845 Congratulating Avery Clifton.
- Congratulating the 2009 Kansas Master Teach-SR 1846 ers.
- Resolution designating Diabetes Alert day. SB 1856
- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1864 Congratulating the Washburn Rural High School girls' basketball team.

Schmidt, Vicki—Concluded

- SR 1866 Congratulating the Highland Park High School bovs' basketball team.
- Congratulating the Kansas Medical Society on its SR 1869 150th Anniversary
- SR 1876 Urging the extension of the influenza vaccination season.
- Recognizing the 90th anniversary of the passage SB 1897 of the 19th Amendment to the United States Constitution

Schodorf, Jean

- S 201 Display of U.S. flag at half-staff for veterans killed
- SCB 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- Constitutional amendment concerning individual SCB 1611 right to bear arms.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual .25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1615 Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
 - SR 1804 Congratulating Sue Krische.
 - SR 1805 Congratulating the members of the 2009 Kansas Teacher of the Year Team.
- SB 1806 Congratulating Shirley Higgins.
- SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
- SB 1825 Congratulating the 2008 Kansas National Board Certified Teachers.
- SR 1826 Congratulating the 2009 Horizon Award Program educators.
- Congratulating the winner of the 2008 Kansas SB 1827 Milken Family Foundation National Educator Award.
- SR 1835 Urging the Government of Turkey to respect the Ecumenical Patriarchate and to uphold religious rights.
- SR 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SB 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.
- SB 1873 Congratulating the Wichita Heights boys' basketball team.
- SB 1896 Honoring University of Kansas Chancellor Robert E. Hemenway.
- SB 1897 Recognizing the 90th anniversary of the passage of the 19th Amendment to the United States Constitution.

State Legislature, Joint Senate and **House Committees**

Administrative Rules and Regulations

S 16 Pharmacy act; violations; exemptions for donation and distribution of drugs under certain circumstances.

State Legislature, Joint Senate and

House Committees—Continued

- H 2042 Uniform electronic transactions act; failure to register unlawful.
- H 2044 Insurance; payment of premium by terminated employee.
- H 2065 Intensive groundwater control areas; hearing procedure.

Arts and Cultural Resources

SCR 1604 Encouraging the Kansas State Historical Society to commemorate the Kansas sesquicentennial

Corrections and Juvenile Justice Oversight

- S 14 Interstate compact for juveniles; compact administrator; Kansas council for interstate juvenile supervision.
- S 15 Court ordered custody to commissioner of juvenile justice.

Economic Development

H 2018 Workers Compensation Insurance Rates.

Legislative Educational Planning

Committee

- S 7 School finance; state aid; increases based on CPI-U
- S 8 Kansas tort claims act; medical students enrolled at university of Kansas medical center.
- S 9 State educational institution project delivery construction procurement act.
- S 10 Colleges and universities; fees and tuition; service scholarship programs, allied health care professionals for children with autism.
- S 11 Postsecondary educational institutions; community colleges, acquisition of real property; technical colleges, change in name or designation.
- S 12 Insurance; coverage for autism.
- H 2002 School finance; military children, determination of enrollment.
- H 2003 Career technical education; funding formula; update in terminology.
- H 2004 Regents institutions; participation in mandatory retirement plans, conditions.
- H 2005 KAN-ED funding; Kansas universal service fund.
- H 2006 State educational institutions; recruitment of payment of moving expenses.
- State educational institutions; waiver fees and tu-H 2007 ition at undergraduate and graduate levels.
- H 2008 School medication aide act; certain persons authorized to administer epinephrine.

Legislative Post Audit Committee

- S 194 Schools; at-risk weighting; age-limitation; FTE computation.
- S 230 Creating the department of financial institutions and abolishing the office of the state bank commissioner and the office of the securities commissioner.
- S 231 Transferring the powers and duties of the animal health department and state conservation commission to the department of agriculture.
- H 2181 At-risk moneys: limitation on use for teacher salaries and benefits

State Legislature, Joint Senate and House Committees—Concluded

H 2265 Post audit, financial compliance audits, new state treasurer transition audits, periodic audits of state treasurer and pooled money investment board financial management practices.

Pensions, Investments and Benefits

- S 96 Permanent annual cost-of-living adjustment for members of the retirement system for judges and the Kansas police and firemen's retirement system whose membership date is on or after July 1, 2010.
- S 196 KPERS employment after retirement restrictions to apply to retirants employed by a thirdparty entity.
- H 2072 Less reduction in disability benefits based on income for certain members of the Kansas police and firemen's retirement system
- H 2073 Authorization for KPERS purchase of service credit for certain service as journeyman above apprenticeship for certain teachers.
- H 2090 KPERS, option for affiliation by counties for county detention officers; normal retirement date; associated costs.

State Legislature, Senate Committees

Agriculture

- S 185 Water rights, nonuse, due and sufficient cause.
- Secretary of agriculture, food safety and lodging \$ 203 program changes.
- S 204
- Cities; annexation procedures. Farm wineries; allowing farmers' market sales S 218 permits, allowing issuance of manufacturer's license, allowing manufacture by wine outlet licensees.
- S Sub for H 2295 Fees for fertilizers, pesticides and dairy products; transfer of swine waste nutrient program duties

Assessment and Taxation

- S 97 Prescribing penalties for violations of liquor enforcement tax act by retailers.
- S 98 Period of limitations for refunds and adjustments of income by the internal revenue service under the Kansas income tax act.
- Election in Lyon county to increase retailers' S 99 sales tax declared valid, and tax imposed.
- S 100 Sales tax exemption for fees for guided and nonguided hunts and fishing expeditions and sale of game birds for hunting.
- S 127 Distribution of revenue from tax on alcoholic liqnor
- S 140 Senior citizen property tax deferral act.
- S 177 Income tax credit for certain adoption expenses. Providing a property tax exemption for certain \$ 228 leased vehicles.
- S 242 Computation of amount of personal property tax on motor vehicles.
- S 243 Benefits for disabled veterans.
- S 244 Eligible businesses under the economic revitalization and reinvestment act.
- Sub S 337 Settlement authority to resolve assessments by secretary of revenue.
- SCR 1607 Constitutional amendment to define underground storage natural gas owners as public utilities and subject them to property taxation.

State Legislature, Senate Committees— Continued

- S Sub for H 2365 Taxation, settlement authority of secretary of rev
 - enue, limitations on certain income tax credits valuation of agricultural land, periods of limitation for certain refunds, sales tax exemptions and homestead property tax refunds.

Commerce

- S 35 Municipal bonds and obligations and interest rates thereon, bond revenue sources.
- S 36 Special assessments in transportation districts.
- S 77 State use law committee abolished July 1, 2014.
- S 78 Special assessments in transportation districts.
- S 119 Enacting the community improvement district act.
- S 120 Kansas investments in major products and comprehensive training act.
- S 138 STAR bond financing.
- S Sub for H 2260 Kansas home inspectors professional competence and financial responsibility act.

Education

- S 39 School districts; investment authority.
- S 40 At-risk education council; repeal of.
- S 41 School districts; computation of state aid when districts enlarge; personal financial literacy and disability history and awareness programs; repeal of archaic statutes relating to transfers of funds and property.
- S 42 Elections; ballots; members of the state board of education.
- S 43 State board of education; campaign contributions; limitations.
- S 71 Question submitted elections; new reporting requirements; prohibiting use of public funds or equipment for advocacy.
- S 84 School districts; cash basis law, exceptions; LOB, computation in certain years.
- S 130 Schools; school terms, holidays and in-service training.
- S 131 Technical colleges; change in name or designation; early high school graduation incentive programs.
- S 149 School districts; supplemental general state aid for certain districts.
- S 161 Recreation commissions; petty cash funds.
- S 162 Disability history and awareness.

Ethics and Elections

- S 38 Hospital districts; formation, Linn county.
- S 79 Election; changing filing deadlines for candidates.
- S 80 Certain cities; sale of utility systems; elections; relinquishing authority to regulate natural gas utilities.
- S 103 Elections; certain local units of government; primaries.
- S 117 Elections; certain political advertising; disclosure requirements.
- Sub S 117 Campaign finance; corrupt political advertising; website, e-mail; other internet communication.
 - S 118 Campaign finance; state-wide offices; electronic filing required.
- SCR 1605 State constitutional amendment; deleting mental illness disqualification from voting.

State Legislature, Senate Committees— Continued

Federal and State Affairs

- S 29 Board of technical professions; relating to licensure.
- S 52 Cities; payment for public improvements.
- S 53 Licensure of cereal malt beverage retailers.
- S 75 Municipalities; consolidation and reorganization; political and taxing subdivisions.
- S 76 Cereal malt beverages; alcohol content, regulation by ABC, retailers authorized to sell, taxation.
- S 106 Cigarette lighters; unlawful to sell to minors; displays must be secure.
- S 107 Bingo games; increasing the prize limits, time and location for conducting games.
- S 114 Zoning; group homes; certain restrictions.
- S 115 Fire departments, temporarily closing highways. S 116 Private detectives; permit to carry a concealed
- 5 116 Private detectives; permit to carry a concealed firearm.
- S 143 The Kansas immigration accountability act.
- S 144 Subdivisions; blanket easements, void; exceptions.
- S 145 Regulating traffic, driving in right lane, required, exceptions.
- S 169 Kansas Act Against Discrimination, inclusion of sexual orientation and gender identity
- S 178 Exceptions from amusement ride operation requirements for home owned amusement rides.
- S 179 Racial profiling; definition thereof, required policies by law enforcement agencies; investigation of complaints.
- S 212 Wine shipments; licensure; wine sales, farmers' market; consumption of alcoholic liquor at public events; other.
- S 213 Consumption of alcoholic liquor in public.
- S 215 Non-gubernatorial appointments subject to confirmation; procedure.
- S 229 Misclassification of employees.
- S 245 Allowing publication of a summary of a city ordinance.
- S 246 Allowing the issuance of a special permit to conduct tastings of alcoholic beverages.
- S 247 Authorizing requests by local governing bodies for hearings by director to revoke or suspend a club or drinking establishment license.
- S 256 Creating the pesticide safety education fee fund.
- S 257 Requirements for public improvements by cities outside of city limits.
- S 263 Insurance; mandatory reinstatement of certain insurance policies in case of mental incapacity of an insured.
- S 268 Elections; military personnel; voting by electronic mail.
- S 269 Conduct and offenses giving rise to forfeiture; adding prostitution and related offenses.
- S 270 Individual district options to consolidate community corrections and court services.
- S 271 Counties; certain contracts; bidding threshold increased.
- S 272 Incompetent to stand trial; commitment, release procedures.
- S 273 Kansas expanded lottery act, electronic gaming machine income distribution, election to allow electronic gaming machines in Sedgwick county.
- S 275 Implements of husbandry, exempt from certificates of title.

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- S 278 Creating the Kansas highway safety commission; penalties for driving under the influence; district magistrate judge jurisdiction for DUI cases.
- Mandatory minimum sentence for involuntary S 279 manslaughter while driving under the influence of alcohol drugs.
- Repealing statutes that authorize the destruction S 286 of prairie dogs by certain townships.
- Prairie dog management, control and conserva-S 287 tion.
- Establishing a procedure for preparation and S 291 adoption of reapportionment plans.
- S 339 Energy conservation and electric generation, transmission, efficiency and air emissions.
- SCB 1608 Kansas constitutional amendment; equal rights; no discrimination based on sex.

S Sub for H 2085 Solid waste management plans and grants to schools to purchase recycled products.

- S Sub for H 2099 Open records; public agency not required to disclose certain information relating to alleged victims of stalking, domestic violence or sexual assault.
- S Sub for H 2267 Non-gubernatorial appointments subject to confirmation; task force on racial profiling; Kansas commission on rural policy.

Financial Institutions and Insurance

- S 49 Insurance coverage, mental health, alcoholism, drug abuse or other substance use disorder benefits.
- S 50 Risk-based capital requirements; establishing a trend test calculation.
- S 72 Credit unions, member of.
- S 89 Workers compensation, records open to public inspection.
- Sub S 89 Open records, certain policy information not required to be open.
 - S 104 Insurance reimbursement for certain services.
 - S 105 Enacting the public adjusters licensing act.
 - S 126 Controlled insurance program act.
 - S 136 Patient protection act, prohibited provisions in agreement.
 - Viatical act; exemption for acts and orders of se-S 137 curities commissioner.
 - Insurance, deposits and securities, Federal home S 139 loan bank
 - \$ 163 Consumer protection, mortgage trigger lead.
 - S 239 Enacting the rural risk bank loan guarantee loan program.
 - S 240 Mortgages, the regulation of.
 - Regulating distressed property consulting serv-S 241 ices

Iudiciary

- Sub S 6 Professional fund raisers; required disclosures.
 - S 26 Additional months added to sentences for certain drug felonies involving firearms.
 - Presumption of paternity; genetic testing. S 27
 - Transportation of controlled substances; same S 28 penalty as open container of liquor.
- Offenses and conduct giving rise to forfeiture; Sub S 28 dog fighting, cockfighting and prostitution.
 - S 34 Continuation of certain exceptions to disclosure under the open records act.
 - S 44 Civil procedure; Kansas false claims act; rules of evidence, admissibility of prior acts or offenses; habeas corpus, infectious disease.

State Legislature, Senate Committees-Continued

- S 45 Kansas power of attorney act amendments.
- S 61 Prison-made goods act; additional authorization to contract for certain work projects.
- S 66 Creating the judicial branch surcharge fund; docket fee increase for prosecuting attorneys' training fund; funding recodification commission; judicial performance commission not required to evaluate retired senior judges; court of appeals, 14th judge; district courts, transmittal of documents.
- S 67 Creating the crime of endangering a dependent adult; amending mistreatment of a dependent adult.
- Judges and justices, mandatory retirement at 75. S 68 may elect to serve to end of current term.
- S 69 Crime stoppers advisory council; Kansas crime stopper trust fund.
- S 70 Trusts; unitrust conversion; uniform principal and income act.
- S 85 Secretary of state; return of filings.
- S 86 Secretary of state; letters of good standing.
- S 87 Agencies; disclosure of certain records; administrative procedure; judicial review.
- Children; permanency and priority of orders. S 88
- Kansas act against discrimination amendments S 112
- regarding disability.
- S 132 Enacting business entity transaction act.
- S 134 Court fees and costs; authorizing supreme court to establish additional charges for court procedures.
- S 135 Kansas open meetings act; interactive communications constituting open meetings.
- S 141 Inspector general within Kansas health policy authority transferred to division of post audit.
- S 148 Kansas silver alert plan.
- S 154 Enforcement of tobacco settlement.
- S 155 Center for health and environmental statistics employees; fingerprinting, criminal history record checks.
- S 156 Close corporations; increasing the limit on the number of stockholders in a close corporation.
- S 157 Driver improvement clinics, fees, disposition thereof; correctional services special revenue fund
- S 158 Allowing offenders in violation of a traffic citation to be issued a restricted driver's license.
- S 159 Enforcement of tobacco settlement.
- S 216 Revision of Kansas cigarette and tobacco products act.
- S 232 Civil liability for worthless checks, definition of giving a worthless check.
- \$ 233 Adoption, relinquishment and consent.
- S 234 Civil procedure; garnishment.
- Uniform adult guardianship and protective pro-S 235 ceedings jurisdiction act.
- S 236 Interest on judgments.
- Crimes, punishment and criminal procedure; \$ 237 trafficking in contraband in a correctional institution or treatment care facility; scrap metal, regulation of selling and buying. S 238
 - Cockfighting, unlawful acts, asset forfeiture.
- Sub S 278 Creating the Kansas DUI commission; correctional services special revenue fund; driver improvement clinics; penalties for driving under the influence; information sent to KBI central repository.

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Local Government

- S 91 Planning and zoning; vesting of development rights.
- S 129 State medicaid program; county jail inmates; changes.

Natural Resources

- S 51 Clothing requirements while hunting deer or elk.
- S 182 Air quality, urban counties, diesel emissions.
- S 183 Solid waste management plans.
- S 184 Surface owner notice act.
- Sub S 184 Surface owner notification.
 - S 189 Creating an outfitter license.
 - S 214 Requiring the secretary of health and environment to convene a task force to study disposal of fluorescent lamps and medical sharps.
- Sub S 214 Allowing schools to receive grants to purchase recycled products.
- S Sub for H 2032 Surface owner notification.

Public Health and Welfare

- S 25 State-wide prohibition on smoking in indoor public areas.
- S 31 Behavioral sciences; continuing education requirements.
- S 32 Evidence in civil actions; expression of apology by health care providers.
- S 33 Board of pharmacy; fingerprinting and criminal history record checks; pharmacy technicians; terms and membership of the board; statewide electronic logging system for the sale of methamphetamine precursors.
- S 62 Department of health and environment; tuberculosis evaluation requirements and prevention and control plan for postsecondary educational institutions; rules and regulations.
- S 63 Polysomnography practice act; duties of the board of healing arts; creation of the polysomnography professional standard council.
- S 81 Enacting the Kansas nonsmoker protection act.
- S 82 Repealing K.S.A. 2008 Supp. 65-1,214.
- S 83 Autism task force.
- S 101 Tanning facilities; regulating minors' use of tanning device.
- S 102 Emergency medical services; use of automated external defibrillator.
- S 121 Health care; reform in funding and structure of the federal and state programs.
- S 147 Department of health and environment; HIV screening for pregnant women and newborn children; rules and regulations.
- S 170 Interpreters data bank.
- S 180 Prohibiting self-service tobacco sales.
- S 181 Insurance, mental health parity.
- S 200 Board of healing arts; regulations of allied health care professionals.
- Sub S 220 Emergency medical services; authority of the board of emergency medical services.
- SR 1851 Urging review and reorganization of health information laws.

Transportation

- S 46 Procedures for sale of certain property by port authorities.
- S 59 Primary seat belt law, penalty.

State Legislature, Senate Committees-

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- S 60 Redevelopment districts within a federal enclave; sale of real property.
- S 122 Rebuilt salvage vehicles, reduction of classification, taxation.
- S 123 Antique vehicles; city issued license plates.
- S 124 Affiliation with Kansas police and firemen's retirement system (KP&F) by the Kansas department of wildlife and parks for membership of certain officers and employees.
- S 142 Establishing the safety corridor act administered by the secretary of transportation, safety corridor fund.
- S 152 Regulation of certain motor carriers by the corporation commission.
- S 153 Regulation of certain motor vehicles and motor carriers by the corporation commission.

Utilities

- S 47 Local exchange carriers methods to satisfy carrier of last resort obligation.
- S 48 Enhanced wireless and VoIP 911 service amendments, collection and disbursement of certain funds.
- Sub S 48 Enhanced wireless and VoIP 911 services amendments, collection and disbursement of certain funds.
 - S 58 Underground utility damage prevention act, amending tolerance zone definition.
- Sub S 58 Kansas underground utility damage prevention act amendments.
 - S 217 Retail electric suppliers act, state educational institutions authorized to enter into certain energy generation agreements.
- S Sub for Energy conservation and electric generation, Sub H 2014 transmission and efficiency and air emissions.
- S Sub for H 2115 Underground utility damage prevention act, interference with an emergency call.
- S Sub for H 2126 Providing caller location in emergency situations.
- S Sub for H 2369 Energy conservation and electric generation,
 - transmission, efficiency and air emissions.

Ways and Means

- S 20 State aid for school capital improvements ceases for bonds issued after December 31, 2008 through June 30, 2011; state aid resumes on and after July 1, 2011.
- S 21 School districts; special capital outlay levy for insurance and utility services.
- S 22 School districts; no-fund warrants for teacher salaries and benefits.
- S 23 Supplemental, appropriations for FY2009 for various state agencies.
- Sub S 23 Supplemental appropriations for FY 2009, FY 2010 and FY 2011 for state agencies, reducing expenditure authorizations.
 - S 30 State surplus property; disposition of computers and firearms.
 - S 55 Concerning ballots by uniformed and overseas citizens and federal services voters.
 - S 56 Elections; security of advance voting ballots.
 - S 57 Campaign finance; requiring electronic filing of certain reports.
 - \$ 73 School districts; special local option budget authority for certain school years.
 - S 74 Cash basis law; exceptions when state aid to school districts are not paid when due.

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- S 90 Insurance department, electronic filing of certain documents.
- S 92 Child in need of care; jurisdiction on CINC proceedings.
- S 93 Joint committee on special claims against the state; membership, qualifications, number.
 S 94 Child in need of care; placement of child in cus-
- tody.
- S 95 Trafficking in contraband in a correctional institution or treatment care facility.
- S 108 Authorizing bonds for certain economic development projects; wind energy.
- S 109 Amending the grandparents as caregivers act.
- S 110 Competency proceedings for criminal defendants; examination of the defendant.
- S 133 Ticket surcharge of \$1 to fund the Kansas sports hall of fame; designated college and high school athletic events.
- S 146 Kansas public employees retirement system; computation of benefits when rate of computation is reduced or placed on furlough; removing sunset provision.
- S 151 Medicaid; charitable donations by certain persons.
- S 164 Municipalities; legal notices; web sites alternative.
- S 165 State water plan fund increases.
- S 166 Medicaid; repealing statute prohibiting prior authorization for certain mental illness medications.
- S 167 Hospitals; increasing the enforceable limit of a hospital lien.
- S 168 Uniform electronic transactions act; failure to register unlawful.
- S 172 Kansas insurance score act, prohibited acts.
- S 173 State health care benefits program; certain retired officers and employees.
- S 174 Removal of mandatory participation requirements for group life insurance.
- S 187 State fire marshal commissioned inspector act; state educational institutions.
- S 188 Wage garnishment; providing definition of "immediate family"; explaining required affidavit in the event of sickness preventing work.
- S 205 Prohibiting the development finance authority from refunding any bonds for any state agency unless specifically approved by an act of the legislature.
- S 207 Appropriations for FY 2010 through FY 2014, home and community based services under DD, PD, FE, TBI and autism medicaid waivers and Tiny-K programs.
- S 208 Abolishing the death penalty.
- S 219 Moratorium on employer contributions for death and disability benefits under KPERS.
- S 220 Emergency medical services, changing attendants from certified to licensed.
- S 221 Duties of emergency medical services board.
- S 222 Emergency medical services, criminal history record checks.
- S 223 Emergency medical services board, authority to issue subpoenas.
- S 224 Emergency medical services board authorized to assess civil fines.
- S 225 Low-income family postsecondary savings accounts incentive program.

State Legislature, Senate Committees-

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- S 226 Taxpayer transparency act; amended to include state and federal funds passed through to counties, cities of first class and school districts and to include each legislator's vote on a given bill during legislative session.
- S 227 Creating the Kansas tourism corporation.
- S 248 Electronic logging system for sale of methamphetamine precursor.
- S 249 Pharmacists; dispensing substitution of drug product.
- S 250 Workers compensation; increase in benefits.
- S 251 Workers compensation; bilateral scheduled injuries under permanent partial disability.
- S 252 Criminal offenders in custody, health care costs; department of corrections and juvenile justice authority.
- S 253 Zoning amendments; protest petitions; mining operations; extraordinary vote not required.
- S 254 Urban area counties; zoning amendments and conditional use permits; protest petitions, other; extraordinary vote not requires.
- S 255 Continuation of statewide levy for public schools and exemption therefrom for residential property.
- S 258 Workers compensation act, to increase the caps on benefits.
- S 259 State and school employer contributions to the Kansas public employees retirement system.
- S 260 No cause of action for recovery of certain loss while operating uninsured motor vehicle.
- S 261 Interstate compact on the agreement among the states to elect the president by national popular vote act.
- S 262 Emergency medical services attendants scope of practice and titles.
- S 264 Amending date by which amount of ad valorem tax to be levied is certified to county clerk.
- S 265 Energy conservation and electric generation, transmission and efficiency and air emissions.
- S 266 Community colleges; tax levies for operation and maintenance.
- S 267 Elections; voters; voter identification changes.
- S 274 Enacting Kansas scenic and heritage backroads act.
- S 276 Providing for separate United States army, navy, air force, marine corps and coast guard or merchant marine license plates.
- S 277 Funding the recodification commission from judicial council funds; judicial performance commission not required to evaluate retired senior judges.
- S 280 Suspension and restriction of driving privileges for test refusal, test failure or alcohol or drug-related conviction for persons under 21.
- S 281 Sentencing for severity level 4 drug crimes; probation or assignment to community correctional services up to 18 months.
- S 282 Court of appeals; delay 14th judge position to January, 2011.
- S 283 Criminal procedure; community corrections, high risk or needs offenders determined by the risk assessment tool, LSI-R; delay use until January 1, 2011.
- S 284 Third party administrator authorized for certain utilities energy efficiency and conservation programs.
- S 285 KAN-ED; funding.

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- S 288 Providing insurance coverage for colorectal cancer screening.
- S 289 Increasing penalty for leaving the scene of a vehicle accident which results in death to match penalty for involuntary manslaughter while driving under the influence.
- S 290 Teachers at the school for the deaf and the school for the blind under the professional negotiation act.
- S 292 Civil procedure, liens; requiring notice of commencement and notice of furnishings to be filed prior to filing certain commercial property liens.
- S 293 Regulating traffic, concerning the definition of an all-terrain vehicle.
- S 294 Amendments to the Kansas whistleblowers act; employee suggestion program.
- S 295 Blind and visually impaired persons, establishing the motor vehicle and safe mobility committee.
- S 296 Federal stimulus act, review and evaluation.
- S 297 Concerning governmental ethics; eliminating the filing requirement for certain faculty of state education institutions; pertaining to reporting of certain expenditures by lobbyists; requiring certain members of the judicial branch to file disclosure statements.
- S 298 Requiring well identification signs be placed on or near certain oil or gas wells.
- S 299 Regulation for underground hydrocarbon storage wells.
- S 300 Special overweight or oversize permits; increasing fees.
- S 301 Repealing statutes concerning land surveys relating to monumentation of corners in boundaries of subdivisions.
- S 302 Kansas intermodal transportation revolving fund; financing intermodal transportation projects.
- S 303 Abolishing KTEC and Kansas, Inc. and transferring the duties thereof to the department of commerce.
- S 304 Appropriations for FY 2009 through FY 2013 for various state agencies.
- S 305 Kansas tort claims act; charitable health care providers.
- S 306 Kansas fireworks act; creating the fireworks and explosives fund.
- S 307 State fire marshal duty to conduct on-site inspect of non-fuel flammable or combustible liquid aboveground storage tanks, delayed until July 1, 2012; compliance with standards, delayed until July 1, 2015.
- S 308 State agencies; relating to the 20% administrative fee charged to agencies; cap increased from \$200,000 to \$350,000.
- S 309 Appropriations for FY2010 and FY2011 for capital improvements for various state agencies.
- S 310 SRS prohibited from placing more than eight sexually violent predators in any one county on transitional release or conditional release; annual report.
- S 311 State budget, state general fund ending balance requirements, revenue shortfalls and reductions in authorized expenditures, economic impact statements, fiscal note updates.
- Sub S 311 State budget, state general fund ending balance requirements, revenue shortfalls and reductions in authorized expenditures.

State Legislature, Senate Committees-

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- S 312 Public utility defined for property tax purposes related to natural gas inventories.
- S 313 School districts; contingency reserve fund; limitations, suspension of.
- S 314 Creating the special economic revitalization act.
- S 315 Amending the water appropriations act and the water projects environmental coordination act.
- S 316 Application of swine waste.
- S 317 Abolishing KTEC and transferring the duties thereof to the department of commerce.
- S 318 Fees collected by state board of healing arts.
- S 319 Affiliation with the Kansas police and firemen's retirement system by adjutant general for membership of certain firefighters serving the 190th Kansas air national guard.
- S 320 The department of social and rehabilitation services, regarding the funeral assistance program.
- S 321 Insurance department; premium taxes collected, credited to the state general fund for FY 2010, not the insurance department service regulation fund.
- S 322 Emergency medical services board operating fund and fire service training program fund pay the 20% reimbursement to the state general fund for administrative costs.
- S 323 2010 transportation plan, financing thereof.
- S 324 Kansas rural policy commission; membership, powers and duties.
- S 325 Employment security law; allows alternate base periods and benefits for individuals forced to leave employment to care for ill or disabled family member.
- S 326 Increasing allowed transfer from crime victims compensation fund to crime victims assistance fund; from \$100,000 to \$300,000.
- S 327 Creating the tobacco master settlement agreement compliance fund; transferring \$990,000 from Kansas endowment for youth fund; enforcing tobacco laws.
- S 328 Kansas health policy authority; grant program for local primary health projects, creating the aid to locals—primary health projects fund.
- aid to locals—primary health projects fund. S 329 Repealing the Kansas home inspectors professional competence and financial responsibility act.
- S 330 Reimbursement rates for nursing facilities; not applicable in fiscal year 2010.
- S 331 Attaching the athletic commission of the state of Kansas to the Kansas racing and gaming commission.
- S 332 Annexation by cities; territory of rural water districts; procedures.
- S 333 Authorizing the Kansas parole board to charge and collect certain fees.
- S 334 Rates of estate tax and franchise tax, three-year freeze without reduction.
- S 335 Income taxation, deductions, determination of Kansas adjusted gross income and credits, decoupling legislation.
- S 336 Reconciling amendments.
- S 337 Amnesty from assessment or payment of penalties and interest on certain unpaid taxes.
- S 338 Distribution of revenue from tax on privilege of selling alcoholic liquor.
- SCR 1616 Urging Kansas school districts to use carefully the federal stimulus funds received.

State Legislature, Senate Committees— Concluded

S Sub for H 2072	KPERS, employment after retirement; KPF dis-
	ability benefits; purchase of service credit;
	and state and school employer contribution
	rate.
S Sub for H 2219	KPERS, purchase of service credit and state and
	school employer contribution rate.
S Sub for H 2354	Appropriations for FY 2009 through FY 2014 for

- various state agencies; including capital improvements and claims against the state. S Sub for H 2373 Omnibus appropriation act and omnibus recon-
- ciliation spending limit bill for the 2009 regular session.

State Legislature, Special Senate and House Committees

Assessment and Taxation

- S 111 Political subdivision budget expenditures from revenues provided by property tax levies; providing limitations thereon.
- SCR 1602 Constitutional amendment authorizing legislature to provide for the classification and taxation of watercraft.
 - H 2078 Income tax treatment of net operating loss carryback on the sale of certain hotels.
 - H 2079 Sales tax refund on certain purchasers of telecommunications machinery and equipment.

Eminent Domain in Condemnation of Water Rights

- S 64 Water appropriation act amendments.
- S 65 Eminent domain; water rights.
- H 2030 Cities; annexation; board of county commissioners; agriculture land restriction. H 2031 Cities: annexation: board of county commission-
- H 2031 Cities; annexation; board of county commissioners decision; election required.

Steineger, Chris

- S 113 Legislature; reducing size of Senate, House.
- S 160 Kansas minimum wage law; minimum wage increase.
- S 198 Counties; consolidation commission; reduce number of counties.
- SCR 1603 Unified Greeley County; Greeley County, City of Tribune; endorsement.
- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
- SCR 1610 Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.
- SCR 1611 Constitutional amendment concerning individual right to bear arms.
- SCR 1613 Constitutional amendment concerning appropriation of money by the legislative branch.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual .25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
- SR 1804 Congratulating Sue Krische. SR 1806 Congratulating Shirley Higgins
- SR 1806 Congratulating Shirley Higgins.
 SR 1819 Commemorating the bicentennial of President
- Abraham Lincoln's birth.
- SR 1844 Encouraging participation in Kansas Public Health Week.

Steineger, Chris—Concluded

- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.
- SR 1870 Commemorating the twentieth anniversary of the sister-state relationship between Kansas and the Province of Taiwan, Republic of China.
- SR 1896 Honoring University of Kansas Chancellor Robert E. Hemenway.

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- S 202 Abortion; late term abortion; records; reporting. SCR 1606 Concurrent resolution opposing relocation of
- Guantanamo detainees to Kansas. SCR 1610 Urging the Environmental Protection Agency to
- authorize use of higher blends of ethanol. SCR 1611 Constitutional amendment concerning individual right to bear arms.
- SCR 1612 Constitutional amendment to have supreme court justices appointments subject to consent of the senate.
- SCR 1613 Constitutional amendment concerning appropriation of money by the legislative branch.
- SCR 1614 Constitutional amendments; creating a budget stabilization fund in the state treasury; annual.25% transfer of general state revenues; transfers only under certain circumstances.
- SCR 1615 Urging congress and the President to respect the 10th amendment and refrain from passing laws intruding on states' rights.
- SCR 1617 Expanded rail service; Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
 - SR 1804 Congratulating Sue Krische.
 - SR 1806 Congratulating Shirley Higgins.
 - SR 1819 Commemorating the bicentennial of President Abraham Lincoln's birth.
 - SR 1828 Urging the Kansas Congressional Delegation to oppose the Employee Free Choice Act.
 - SR 1844 Encouraging participation in Kansas Public Health Week.
- SR 1846 Congratulating the 2009 Kansas Master Teachers.
- SR 1859 Supporting the continued development of the Airborne Laser Program and urging the United States Congress to supply the necessary funding.
- SR 1869 Congratulating the Kansas Medical Society on its 150th Anniversary.

Teichman, Ruth

- SCR 1606 Concurrent resolution opposing relocation of Guantanamo detainees to Kansas.
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- SCR 1611 Constitutional amendment concerning individual right to bear arms.
- SCR 1617 Expanded rail service: Kansas City to Fort Worth, Texas; congratulating Kansas Department of Transportation and others; urging action.
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- SR 1855 Congratulations and commendations, Colby high school girls tennis doubles team
- SR 1867 Congratulations and commendations, Colby high school wrestling team
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- SR 1887 Congratulations and commendations, Correll, Emalene
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- SR 1834 Congratulations and commendations, Dwight, Ed
- SB 1836 Congratulations and commendations, Goodland high school girls golf team
- SR 1839 Congratulations and commendations, Greeley county high school girls cross-country team
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