

Journal of the Senate

THIRTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 27, 2003—9:30 a.m.

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

Heavenly Father,

One of the responsibilities legislators have which blow my mind is how they keep informed on the hundreds and hundreds of bills that are passed in just one session. Maybe they don't have to be acquainted with all of them, but they never know which bill a constituent will ask about, and sometimes they just throw the number of the bill at them.

Just to keep up with ones which I call the A-T-I-O-N or "ation" bills is a miracle.

They should be acquainted with
Water line restoration.
Add to that the one about
Traffic regulation

Drug possession is a level
D4 classification.
While border boxes will become
Boxes of probation.

In an act concerning crime
There's a fee application.
Another act concerning crime:
Offender registration.

There is a suspension of
Penitential communication,
And ratemaking principles need
Prior authorization

As to The Kansas Payment Center
They should know the expiration.
And, of course, there's always
Property taxation.

School districts are concerned
With assessed valuation;
And a nonpartisan election
By the State Board of Education.

It's important to remember
Workers compensation;
Which is related to
Statistic publication.

And there are many others
Of many situations,
But they have already made
A too long invocation!!

Wildlife and parks are related to
What else? Conservation.
Which also includes
Animal depredation.

Bless them all, Lord, as they do the
best they can.

I pray in the Name of Christ,

When it comes to Insurance
There are trade associations,
And related to parental rights:
Notice of termination.

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 248, An act enacting the Kansas surety recovery agents act; relating to licensure, requirements and fees of surety recovery agents; prohibiting certain acts and prescribing

penalties therefor; prescribing certain duties and responsibilities of the attorney general, 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 247**.

Elections and Local Government: **HB 2023, HB 2202**.

Judiciary: **Sub HB 2197**.

Transportation: **HB 2135, HB 2150, HB 2189**.

Ways and Means: **HB 2192, HB 2193**.

CHANGE OF REFERENCE

The President withdrew **SB 181** from the Committee on Ways and Means, and rereferred the bill to the Committee on Commerce.

MESSAGE FROM THE GOVERNOR

February 26, 2003

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

Secretary of the Department on Aging, Pamela Johnson-Betts, pursuant to the authority vested in me by K.S.A. 75-5903, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

Member of the Kansas Human Rights Commission, Beth M. Bradrick, Ph.D, pursuant to the authority vested in me by K.S.A. 44-1003, effective upon the date of confirmation by the Senate, to serve for a four-year term.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2015, HB 2016, HB 2027, HB 2035; Substitute HB 2036; HB 2057; Substitute HB 2064; HB 2071, HB 2078, HB 2088, HB 2121; HB 2132; HB 2138; Substitute HB 2145; HB 2160, HB 2161, HB 2169, HB 2171; Substitute HB 2173; HB 2208, HB 2214, HB 2288, HB 2308, HB 2312, HB 2314, HB 2315, HB 2332, HB 2375**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2015, HB 2016, HB 2027, HB 2035; Substitute HB 2036; HB 2057; Substitute HB 2064; HB 2071, HB 2078, HB 2088, HB 2121; HB 2132; HB 2138; Substitute HB 2145; HB 2160, HB 2161, HB 2169, HB 2171; Substitute HB 2173; HB 2208, HB 2214, HB 2288, HB 2308, HB 2312, HB 2314, HB 2315, HB 2332, HB 2375 were thereupon introduced and read by title.

CONFIRMATION OF APPOINTMENTS

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

Senator Oleen moved the following appointment be confirmed as recommended by the Standing Senate Committee:

On the appointment to the:

State Fire Marshal:

Joseph P. Odle, serves at the pleasure of the Governor.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huel-

skamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Corbin, Emler.

The appointment was confirmed.

ORIGINAL MOTION

Having voted on the prevailing side in Final Action on Wednesday, February 26, 2003, Senator Steineger moved the Senate reconsider its adverse action on **SB 146**. The motion carried and the bill was returned to Final Action.

COMMITTEE OF THE WHOLE

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

On motion of Senator Adkins the following report was adopted:

Recommended **SB 131** be passed.

SB 66 be amended by motion of Senator Vratil, on page 8, after line 20, by inserting:

“New Sec. 2. (a) Whenever a real estate broker who is affiliated with a title insurer or title agent refers a customer to such affiliated title insurer or affiliated title agent in conjunction with the sale or purchase of real estate, the real estate broker shall provide to the customer a written disclosure. The disclosure shall contain the following information in 10-point boldface type:

(1) That the real estate broker has an ownership or other financial interest in such title insurer or title agent;

(2) that real estate broker may benefit financially from such referral; and

(3) that the customer has the right to choose any other title insurer or title agent.

(b) For the purposes of this section: (1) “Broker” shall have the meaning ascribed to it in K.S.A. 58-3035, and amendments thereto. Broker shall also include licensee as such term is defined in K.S.A. 58-3035, and amendments thereto.

(2) “Real estate” shall have the meaning ascribed to it in K.S.A. 58-3035 and amendments thereto.

(3) “Title agent” shall have the meaning ascribed to the term “title insurance agent” in K.S.A. 40-1136 and amendments thereto.

(4) “Title insurer” shall have the meaning ascribed to it in K.S.A. 40-1136 and amendments thereto.”;

by renumbering sections accordingly

Senator Brungardt further amended the bill, on page 7, in line 43, before “The” by inserting

“No title insurer or title agent may accept any order for, issue a title insurance policy to, or provide services to, an applicant if it knows or has reason to believe that the applicant was referred to it by any producer of title business or by any associate of such producer, where the producer, the associate, or both, have a financial interest in the title insurer or title agent to which business is referred unless the producer has disclosed to the buyer, seller and lender the financial interest of the producer of title business or associate referring the title insurance business.

(f) No title insurer or title agent may accept an order for title insurance business, issue a title insurance policy, or receive or retain any premium, or charge in connection with any transaction if: (i) The title insurer or title agent knows or has reason to believe that the transaction will constitute controlled business for that title insurer or title agent, and (ii) 80% or more of the gross operating revenue of that title insurer or title agent during the six full calendar months immediately preceding the month in which the transaction takes place is derived from controlled business. The prohibitions contained in this subparagraph shall not apply to transactions involving real estate located in a county that has a population, as shown by the last preceding decennial census, of 10,000 or less.

(g)”, and **SB 66** be passed as amended.

SB 101 be amended by adoption of the committee amendments, be further amended by motion of Senator Bunten, as amended by Senate Committee, on page 2, after line 17, as follows:

“Sec. 3. K.S.A. 12-1254 is hereby amended to read as follows: 12-1254. In all cities having a population by the official state census of more than ~~one hundred twenty thousand (120,000)~~ 120,000 and less than ~~one hundred fifty thousand (150,000)~~ 150,000 in which a free public library has heretofore been established as provided by law, the board of directors of such free public library is hereby authorized and empowered to submit the question of making an annual tax levy of not to exceed one (~~4~~) mill for a period not to exceed five (~~5~~) years upon the taxable tangible property within such city for the purpose of creating a building fund to be used for the construction, reconstruction, additions to, furnishing and equipping of the building housing such free public library and of a building to house motor vehicles of such free public library and the architectural expense incidental thereto, to the electors of such city at an election called and held in the manner provided for the calling and holding of elections under the provisions of the general bond law, at the time fixed for the holding of the primary election in August. The amount of such levy and the period for which it will be made shall be stated in the notice and upon the ballot of such election. No tax levy shall be made under the provisions of this act without the question of the making of such levy having been submitted to and having received the approval of a majority of the electors of such city voting thereon at an election called and held for such purpose. All moneys derived from the tax levy authorized by this act shall be placed in a building fund to be used only for the purposes for which the tax levy was made. All tax levies authorized by this act shall be in addition to all other tax levies authorized by law and shall not be subject to any of the limitations prescribed by law, including K.S.A. 12-1215 and 12-1217 and ~~any acts amendatory thereof or supplemental amendments~~ thereto.

Sec. 4. K.S.A. 25-203 is hereby amended to read as follows: 25-203. (a) Except as otherwise provided in subsection (b), the primary national, state, county and township election shall be held on the first Tuesday ~~of after the fourth Monday in~~ August in even-numbered years for the nomination of all candidates to be voted for at the next following general election.

(b) In the year ~~1992~~ 2012, if new boundary lines are defined and districts established in the manner prescribed by law for the offices of representative in the United States congress, senator and representative in the legislature of the state of Kansas, and member of the state board of education, on or after June 13, ~~1992~~ 2012, the primary national, state, county and township election shall be held on August ~~25, 1992~~ 28, 2012, for the nomination of all candidates to be voted for at the next following general election.

Sec. 5. K.S.A. 2002 Supp. 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, 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 *following the fourth Monday* 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 Signers.	Street Number or Rural Route (as registered).	Name of City.	Date of Signing.
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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 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 11, 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 congress 1,000 registered voters;
- (B) for the office of member of the state board of education 300 registered voters;
- (C) for the office of state senator 75 registered voters; and
- (D) for the office of state representative 25 registered voters.

(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 10, 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 24, 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 11, 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 12, 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. 6. K.S.A. 2002 Supp. 25-302a is hereby amended to read as follows: 25-302a. Any political party seeking official recognition in this state after the effective date of this act shall file in its behalf, not later than 12:00 noon, June 1, prior to the primary election held on the first Tuesday following the fourth Monday of August in even-numbered years, 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 a holiday petitions signed by qualified electors equal in number to at least 2% of the total vote cast for all candidates for the office of governor in the state in the last preceding general election. Such petitions shall declare support for the official recognition of a political party, the name of which shall be stated in the declaration. No political party seeking official recognition shall assume a name or designation which is similar, in the opinion of the secretary of state, to that of an existing party as to confuse or mislead the voters at an election.

Petitions seeking official recognition of a political party shall be substantially in the following form:

PETITION SEEKING THE OFFICIAL RECOGNITION OF THE _____ PARTY IN THE STATE OF KANSAS

I, the undersigned, hereby declare my support for the official recognition of the _____ Party.

I have personally signed this petition; I am a registered elector of the state of Kansas and the County of _____, and my residence address is correctly written after my name.

NAME OF SIGNER ADDRESS AS REGISTERED CITY DATE OF SIGNING

Appended to each petition page or set of pages shall be an affidavit by the circulator of the petition affirming that such circulator is a resident of the state of Kansas and has the qualifications of an elector in Kansas and that the circulator personally witnessed the signing of the petition by each person whose name appears thereon. The affidavit shall be executed before a person authorized to administer oaths and include the address of the circulator.

Each page of such petition shall bear the names of registered voters of a single county. All petitions shall be grouped according to the county in which each was circulated before being filed with the secretary of state. All such petitions shall be filed at one time. Any related petitions presented thereafter will be deemed to be separate and not a part of earlier filings. County election officers shall cooperate with the secretary of state in verifying the sufficiency of these petitions as required by law.

The secretary of state shall transmit such petitions to the county election officer of each county for which petitions were presented to be examined for sufficiency pursuant to the provisions of K.S.A. 25-3601 *et seq.* and amendments thereto and applicable regulations. Not more than 20 days following receipt of such petitions from the secretary of state, the county election officer shall return these documents to the secretary of state certifying the number of sufficient signatures thereon. The secretary of state shall gather all petitions and determine whether a sufficient number of signatures was submitted. The secretary of state shall forthwith notify the person who submitted the declaration of intent to circulate such petitions of the sufficiency or insufficiency of the number of signatures.

Sec. 7. K.S.A. 25-1115 is hereby amended to read as follows: 25-1115. (a) "General election" means the election held on the Tuesday succeeding the first Monday in November of even-numbered years, the elections held for officers on the first Tuesday in April, and in the case of special elections of any officers to fill vacancies, the election at which any such officer is finally elected.

(b) "Primary election" means the election held on the first Tuesday *following the fourth Monday* in August of even-numbered years, the election held five weeks preceding the election on the first Tuesday in April, and any other preliminary election at which part of the candidates for special election to any national, state, county, city or school office are eliminated by the process of the election but at which no officer is finally elected.

Sec. 8. K.S.A. 2002 Supp. 25-1122 is hereby amended to read as follows: 25-1122. (a) Any registered voter may file with the county election officer where such person is a resident, or where such person is authorized by law to vote as a former precinct resident, an application for an advance voting ballot. The signed application shall be transmitted only to the county election officer by personal delivery, mail, facsimile or as otherwise provided by law.

(b) Applications for advance voting ballots to be transmitted to the voter by mail shall be filed only at the following times:

(1) For the primary election occurring on the first Tuesday *following the fourth Monday* in August in even-numbered years, between April 1 of such year and the last business day of the week preceding such primary election.

(2) For the general election occurring on the Tuesday succeeding the first Monday in November in even-numbered years, between 90 days prior to such election and the last business day of the week preceding such general election.

(3) For the primary election held five weeks preceding the first Tuesday in April, between January 1 of the year of such election and the last business day of the week preceding such primary election.

(4) For the general election occurring on the first Tuesday in April, between January 1 of the year of such election and the last business day of the week preceding such general election.

(5) For question submitted elections occurring on the date of a primary or general election, the same as is provided for ballots for election of officers at such election.

(6) For question submitted elections not occurring on the date of a primary or general election, between the time of the first published notice thereof and the last business day of the week preceding such question submitted election, except that if the question submitted election is held on a day other than a Tuesday, the county election officer shall determine the final date for mailing of advance voting ballots, but such date shall not be more than three business days before such election.

(7) For any special election of officers, at such time as is specified by the secretary of state.

(8) For the presidential preference primary, between January 1 of the year in which such primary is held and the last business day of the week preceding such primary election.

The county election officer of any county may receive applications prior to the time specified in this subsection (b) and hold such applications until the beginning of the prescribed application period. Such applications shall be treated as filed on that date.

(c) Unless an earlier date is designated by the county election office, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer shall be filed on the Tuesday next preceding the election and on each subsequent business day until no later than 12:00 noon on the day preceding such election. If the county

election officer so provides, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer also may be filed on the Saturday preceding the election. Upon receipt of any such properly executed application, the county election officer shall deliver to the voter such ballots and instructions as are provided for in this act.

An application for an advance voting ballot filed by a sick, physically disabled or illiterate voter or by a person rendering assistance to such voter may be filed during the regular advance ballot application periods until the close of the polls on election day.

In any county having a population exceeding 250,000, the county election officer may designate places other than the central county election office as satellite advance voting sites. At any satellite advance voting site, a registered voter may obtain an application for advance voting ballots, such ballots and instructions shall be delivered to the voter in the same manner and subject to the same limitations as otherwise provided by this subsection.

(d) Any person having a permanent physical disability or an illness which has been diagnosed as a permanent illness is hereby authorized to make an application for permanent advance voting status. Applications for permanent advance voting status shall be in the form and contain such information as is required for application for advance voting ballots and also shall contain information which establishes the voter's right to permanent advance voting status.

(e) On receipt of any application filed under the provisions of this section, the county election officer shall prepare and maintain in such officer's office a list of the names of all persons who have filed such applications, together with their correct post office address and the precinct, ward, township or voting area in which such persons claim to be registered voters or to be authorized by law to vote as former precinct residents and the present resident address of each applicant. Such names and addresses shall remain so listed until the day of such election. The county election officer shall maintain a separate listing of the names and addresses of persons qualifying for permanent advance voting status. All such lists shall be available for inspection upon request in compliance with this subsection by any registered voter during regular business hours. The county election officer upon receipt of such applications shall enter upon a record kept by such officer the name and address of each applicant, which record shall conform to the list above required. Before inspection of any advance voting ballot application list, the person desiring to make such inspection shall provide to the county election officer identification in the form of driver's license or other reliable identification and shall sign a log book or application form maintained by such officer stating such person's name and address and showing the date and time of inspection. All records made by the county election officer shall be subject to public inspection, except that the identifying number on ballots and ballot envelopes and records of such number shall not be made public.

(f) If a person on the permanent advance voting list fails to vote in two consecutive general elections held on the Tuesday succeeding the first Monday in November of each even-numbered year, the county election officer may mail a notice to such voter. Such notice shall inform the voter that the voter's name will be removed from the permanent advance voting list unless the voter renews the application for permanent advance voting status within 30 days after the notice is mailed. If the voter fails to renew such application, the county election officer shall remove the voter's name from the permanent advance voting list. Failure to renew the application for permanent advance voting status shall not result in removal of the voter's name from the voter registration list.

Sec. 9. K.S.A. 25-2102 is hereby amended to read as follows: 25-2102. (a) "General election" means the election held on the Tuesday succeeding the first Monday in November of even-numbered years, the elections held for officers on the first Tuesday in April, and in the case of special elections of any officers to fill vacancies, the election at which any such officer is finally elected.

(b) "Primary election" means the election held on the first Tuesday *following the fourth Monday* in August of even-numbered years, the election held five weeks preceding the election on the first Tuesday in April, and any other preliminary election at which part of the candidates for special election to any national, state, county, city or school office are eliminated by the process of the election but at which no officer is finally elected.

Sec. 10. K.S.A. 25-2502 is hereby amended to read as follows: 25-2502. (a) "General election" means the election held on the Tuesday succeeding the first Monday in November of even-numbered years, the elections held for officers on the first Tuesday in April, and in the case of special elections of any officers to fill vacancies, the election at which any such officer is finally elected.

(b) "Primary election" means the election held on the first Tuesday *following the fourth Monday* in August of even-numbered years, the election held five weeks preceding the election on the first Tuesday in April, and any other preliminary election at which part of the candidates for special election to any national, state, county, township, city or school office are eliminated by the process of the election but at which no officer is finally elected.

Sec. 11. K.S.A. 25-3901 is hereby amended to read as follows: 25-3901. As used in this act, unless the context otherwise requires, the words and terms defined in article 25 of chapter 25 of Kansas Statutes Annotated shall have the meaning therein ascribed thereto, to the extent that the same are not in conflict with the following:

(a) "District office" means the office of district judge, district magistrate judge, county commissioner, state representative, state senator, district attorney or county attorney.

(b) "Party" means a political party having a state and national organization and of which the officer or candidate whose position has become vacant was a member.

(c) "Party candidacy" means a candidate of a political party for a party nomination at a primary election or the party candidate at a general election.

(d) "General election" means the election held on the Tuesday succeeding the first Monday in November in even-numbered years.

(e) "Primary election" means the election held on the first Tuesday *following the fourth Monday* in August in even-numbered years.

(f) "County chairman" or "county chairperson" means the chairperson of the county central committee, provided to be elected under K.S.A. 25-3802 and amendments thereto, of the political party of which the officer or candidate whose position has become vacant was a member.

Sec. 12. K.S.A. 2002 Supp. 25-4005 is hereby amended to read as follows: 25-4005. The nomination papers or petitions as mentioned in K.S.A. 25-4004, and amendments thereto, 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 the _____ party, hereby nominate

(Here insert name and city)

and state of Kansas as a candidate for the office of governor, and running with such candidate

(Here insert name and city)

and state of Kansas as a candidate for the office of lieutenant governor to be voted for at the primary to be held on the first Tuesday *after the fourth Monday* in August in _____, as representing the principles of such party; and I further declare that I intend to support the candidates herein named and that I have not signed and will not sign any petition or nomination paper for any other persons, for such offices at the next ensuing election.

(HEADING)

Name of Signers	Street Number or RR (as Registered)	Name of City	Date of Signing
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All nomination papers 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.

Each signer of a nomination paper shall sign but one such paper for governor and lieutenant governor, and shall declare that such signer intends to support the candidates therein named, and shall add to the signer's signature the signer's residence, if in a city, by street and number (if any); or, otherwise by address as shown on such signer's registration. 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.

All signers of each separate nomination paper shall reside in the same county. The affidavit of a petition circulator who is a resident of the state of Kansas and has the qualifications of an elector of the state of Kansas shall be appended to each such nomination paper, stating that to the best of such petition circulator's knowledge and belief, all the signers thereof are qualified electors of that county; that the petition circulator knows that they signed the same with full knowledge of the contents thereof; that their respective residences are correctly stated therein; that each signer signed the same on the date stated opposite such signer's name, and that the affiant intends to support the candidates therein named. Such affidavit shall be prima facie evidence of the facts therein stated.

Such nomination papers shall be signed by not less than 1% of the total vote of the party designated in the state. The basis of the percentage shall be the vote of the party for secretary of state at the last preceding general election of secretary of state; or, in case of a new party, the basis of a percentage shall be the vote cast for the successful candidate for secretary of state at the last preceding general election of secretary of state.

Sec. 13. K.S.A. 25-306b is hereby amended to read as follows: 25-306b. (a) Except as provided by this section, no person who has been nominated by any means for any national, state, county or township office may cause such person's name to be withdrawn from nomination after the day of the primary election.

(b) Any person who has been nominated by any means for any national, state, county or township office who declares that they are incapable of fulfilling the duties of office if elected may cause such person's name to be withdrawn from nomination by a request in writing, signed by the person and acknowledged before an officer qualified to take acknowledgments of deeds. Any such request shall be filed with the secretary of state in the case of national and state offices and with the county election officer in the case of county and township offices. ~~Except as provided in subsection (d), in~~ In the case of national and state offices, any such request shall be filed within ~~seven~~ *three* days, including Saturdays, Sundays and holidays, after the meeting of the state board of canvassers for the final canvass of primary election provided for in K.S.A. 25-3205, and amendments thereto. ~~Except as provided in subsection (d), in~~ In the case of county and township offices, any such request shall be filed within 10 days after the meeting of the county board of canvassers to canvass the primary election as provided in K.S.A. 25-3104, and amendments thereto. No name withdrawn as provided in this section shall be printed on the ballots for such office for the general election.

(c) In the case of the death of a person who has been nominated for any national, state, county or township office, the county chairperson of the political party of which such nominee was a member may cause such nominee's name to be withdrawn from nomination by a request in writing, signed by the chairperson and acknowledged before an officer qualified to take acknowledgments of deeds. Any such request shall be filed with the secretary of state in the case of national and state offices and with the county election officer in the case of county and township offices. ~~Except as provided in subsection (d), in~~ In the case of national and state offices, any such request shall be filed within seven days, including Saturdays, Sundays and holidays, after the meeting of the state board of canvassers for the final canvass of primary election provided for in K.S.A. 25-3205, and amendments thereto. ~~Except as provided in subsection (d), in~~ In the case of county and township offices, any such request shall be filed within 10 days after the meeting of the county board of canvassers to canvass the primary election as provided in K.S.A. 25-3104, and amendments thereto. No name withdrawn as provided in this section shall be printed on the ballots for such office for the general election.

~~(d) Whenever there has been a vacancy which occurred from a withdrawal under this section, and such vacancy was filled according to law, the person filling the vacancy may cause such person's name to be withdrawn from nomination in the manner provided in subsection (b) or (c) of this section at any time prior to the 40th day before the general election.~~

Sec. 14. K.S.A. 25-1220 is hereby amended to read as follows: 25-1220. The county election officers of the various counties shall transmit to every person who is eligible to vote

by federal services absentee ballot who makes application to vote in accordance with K.S.A. 25-1216 and amendments thereto an official federal services absentee ballot and ballot envelope, voting instructions and an envelope for use in returning the official federal services absentee ballot and ballot envelope. If the application is made ~~45~~ 30 or more days before the day of the election, such ballot, instructions and envelopes shall be sent as soon as practicable, but not later than ~~45~~ 30 days before the election.

Sec. 15. K.S.A. 25-3205 is hereby amended to read as follows: 25-3205. The state board of canvassers shall be the board of canvassers for the final canvass of the primary election of national and state officers. Provisions of law relating to the canvass of the national and state general elections shall, as far as applicable, apply to the canvass and certification of the secretary of state of such primary elections. The state board of canvassers shall meet at the office of the secretary of state on the call of the secretary of state as soon as convenient after the tabulation of the returns is made. The meeting shall be called not later than ~~September 1~~ the fourth Tuesday next following such election, except when such date falls on Sunday, then not later than the next following day which is not a legal holiday, and may recess from time to time until the final canvass is completed.

As soon as such final canvass of the primary election shall be completed, the secretary of state shall publish in the Kansas register a certified statement of the candidates for the presidential electors, United States senator, representatives in congress and all state officers or so many of such officers as may have been voted for at such election. ~~On the fourth day~~ ~~As soon as practicable~~ after the completion of such final canvass ~~or as soon as practicable thereafter~~, the secretary of state shall mail to each candidate found by the state board of canvassers to be duly nominated a certificate of nomination, showing the name of the candidate, the party by whom nominated and the office for which the candidate is nominated as specified in the nomination papers and determined by the state board of canvassers.

Sec. 16. K.S.A. 25-3904 is hereby amended to read as follows: 25-3904. (a) When a district convention is provided by law to be held to elect a person to fill a vacancy in a party candidacy for a district office, the county chairperson designated in subsection (b) or (c), within ~~21~~ days 10 days, including Saturdays, Sundays and holidays, of the receipt of the notice that the vacancy has occurred or will occur shall call and convene a convention of all committeemen and committeewomen of the political party from the precincts in such district. If such county chairperson is absent or for any reason is unable to call, or refuses to call such convention, then the corresponding county vice-chairperson shall call the convention and perform the other duties under this section required of such chairperson.

(b) If the district lies within a single county, the county chairperson of such county shall call the convention by mailing a notice at least seven days before the date of the convention to the committeemen and committeewomen in such county who are entitled to vote at such convention pursuant to subsection (e).

(c) If all or part of more than one county lies within the district, the county chairperson of the county in which the greatest number of qualified voters of the district reside shall call the convention by mailing a notice of such convention to each county chairperson of the party in each such county, at least ~~10~~ seven days before the date of the convention. Such convention shall be held at a location within the district selected by the chairperson calling the convention. Such county chairpersons shall, within three days after receipt of such notice, mail notice of such convention to the committeemen and committeewomen in their counties who are entitled to vote at such convention pursuant to subsection (e).

(d) The notice of such convention shall state: (1) The place where the convention is to be held; (2) the time when the convention will convene; and (3) the purpose for which the convention is to be held.

(e) At the time and place fixed for holding the convention, the county chairperson who called the convention shall act as temporary chairperson and shall call the convention to order. One-third of the eligible members of the convention shall constitute a quorum for such election. In the event a quorum is not present at the time and place that such convention is called, the members present shall adjourn the convention to a day and time certain, which shall not be later than ~~14~~ three days after such adjournment of such convention, and provide for notification of the time and place of such adjourned convention to be given to the eligible members not present. The convention shall organize by electing a permanent

chairperson and such other officers as necessary. After the convention is organized, it shall elect a person to fill such vacancy in the party candidacy. Such election shall be by secret ballot and the person elected shall be the one who receives the majority of all the votes cast. If no person receives a majority of all votes cast on any ballot, the balloting shall continue until some person receives a majority of all the votes cast. Each committeeman and committeewoman of the party of the precincts in such district shall be entitled to vote. No precinct committeeman or committeewoman shall be represented or shall vote by proxy. The convention may adopt rules as necessary to govern its procedure in making nominations, voting, counting and canvassing votes and for the conduct of any business which may properly be brought before the convention, but such rules shall not be in conflict with the provisions of this section.

(f) After a person has been elected to fill a vacancy in a party candidacy for a district office, the chairperson or vice-chairperson of the convention shall execute a certificate, under oath, stating that such person has been duly elected to fill such vacancy and shall transmit such certificate to the secretary of state or appropriate county election officer.

Sec. 17. K.S.A. 25-3904a is hereby amended to read as follows: 25-3904a. (a) When a vacancy occurs in a party candidacy for the office of member of the state board of education, the county chairperson designated in subsection (b), (c) or (d), within ~~21 days~~ *10 days, including Saturdays, Sundays and holidays*, of receipt of notice that the vacancy has occurred or will occur, shall call and convene a district convention for the purpose of electing a person to fill such vacancy. If such county chairperson is absent or for any reason is unable to call or refuses to call such convention, then the county vice-chairperson shall call the convention and perform the other duties required of such chairperson under this section.

(b) If the board member district lies within a single county, the county chairperson of such county shall call a convention of all precinct committeemen and committeewomen of the party of the precincts in such district in the manner provided by subsections (b) and (d) of K.S.A. 25-3904 and amendments thereto, and such convention shall be conducted in the manner provided in subsection (e) of K.S.A. 25-3904 and amendments thereto.

(c) If all or part of more than one and less than five counties lie within the board member district, the county chairperson of the county in which the greatest number of qualified voters of the district reside shall call a convention of all precinct committeemen and committeewomen of the party of the precincts in such district in the manner provided by subsections (c) and (d) of K.S.A. 25-3904 and amendments thereto, and such convention shall be conducted as provided in subsection (e) of K.S.A. 25-3904 and amendments thereto. Such convention shall be held at a location within the district selected by the chairperson calling the convention.

(d) If all or part of five or more counties lie within the board member district, the county chairperson of the county in which the greatest number of qualified voters of the district reside shall call a convention of all county chairpersons and vice-chairpersons of the party of the counties in such district. Such convention shall be held at a location within the district selected by the chairperson calling the convention. Such county chairperson shall call the convention by mailing a notice to each such county chairperson and vice-chairperson at least seven days before the date of the convention. Such notice shall state: (1) The place where the convention is to be held; (2) the time when the convention will convene; and (3) the purpose for which the convention is to be held.

At the time and place fixed for holding the convention, the county chairperson who called the convention shall act as temporary chairperson and shall call the convention to order. One-third of the eligible members of the convention shall constitute a quorum for such election. In the event a quorum is not present at the time and place that such convention is called, the members present shall adjourn the convention to a day and time certain, which shall be not later than ~~14~~ *three* days after such adjournment of such convention and provide for notification of the time and place of such adjourned convention to be given to the eligible members not present. The convention shall proceed to organize by electing a permanent chairperson and such other officers as necessary. After the convention is organized, it shall proceed to elect a person to fill the vacancy in the party candidacy. Such election shall be by secret ballot and the person elected shall be the one who shall receive the majority of all the votes cast. If no person receives a majority of all votes cast on any ballot, the balloting

shall continue until some person receives a majority of all the votes cast. Each county chairperson and vice-chairperson of the party of the counties in such district shall be entitled to vote. No county chairperson or vice-chairperson shall be represented or shall vote by proxy. The convention may adopt rules necessary to govern its procedure in making nominations, voting, counting and canvassing votes and for the conduct of any business which may properly be brought before the convention, but such rules shall not be in conflict with the provisions of this section.

After a person has been elected to fill a vacancy in a party candidacy for the office of member of the state board of education, the chairperson or vice-chairperson of the convention shall execute a certificate, under oath, stating that such person has been duly elected to fill such vacancy and shall transmit such certificate to the secretary of state.

Sec. 18. K.S.A. 25-3905 is hereby amended to read as follows: 25-3905. (a) When a vacancy occurs after a primary election in a party candidacy, such vacancy shall be filled by the party committee of the congressional district, county or state, as the case may be, except if the vacancy is in a party candidacy for a district office or for the office of member of the state board of education, it shall be filled by district convention held as provided in K.S.A. 25-3904 and amendments thereto, or as provided in K.S.A. 25-3904a and amendments thereto, and except as otherwise provided in subsection (c). Such convention shall be called within 10 days, *including Saturdays, Sundays and holidays*, of receipt of the notice that the vacancy has occurred or will occur. If only one political party nominates a candidate at the primary election and thereafter a vacancy occurs in such party candidacy, any political party may fill such vacancy in the manner specified in this section.

(b) In addition to other vacancies in party candidacies to which this section applies, this section shall also apply when a vacancy occurs in an office, and it is provided by law that such vacancy shall be filled by appointment until the next general election at which time a person is to be elected to fill the unexpired term, or words of like effect, and such vacancy occurs after the primary election.

(c) When a vacancy occurs after a primary election in a party candidacy for governor or lieutenant governor, a vacancy shall thereby also occur for the other of such two offices. Such vacancies shall be filled by a state party delegate convention. The convention shall be called by the state party chairperson. The delegates to the convention shall be the state party committee members, and the officers of the convention shall be the officers of the state party committee. At such convention the vote to fill such vacancies shall be taken such that each convention vote shall be for a candidate for governor and lieutenant governor running together. If the initial vacancy that has occurred is for the office of lieutenant governor, the person who is the candidate for governor of such pair of candidates shall be the only governor candidate at such convention.”;

By renumbering the remaining sections accordingly;

Also on page 2, in line 18, after “K.S.A.” by inserting “12-1254, 25-203, 25-306b, 25-1115, 25-1220, 25-2102, 25-2502, 25-3205, 25-3901, 25-3904, 25-3904a, 25-3905,”; also in line 18, preceding “are” by inserting “and K.S.A. 2002 Supp. 25-205, 25-302a, 25-1122 and 25-4005”;

In the title, in line 10, after the second semicolon, by inserting “relating to the date when certain primary elections are held;”; in line 11, following “K.S.A.” by inserting “12-1254, 25-203, 25-306b, 25-1115, 25-1220, 25-2102, 25-2502, 25-3205, 25-3901, 25-3904, 25-3904a, 25-3905,”; also in line 11, preceding the second “and” by inserting “and K.S.A. 2002 Supp. 25-205, 25-302a, 25-1122 and 25-4005”, and **SB 101** be passed as further amended.

SB 134 be amended by adoption of the committee amendments, be further amended by motion of Senator Jordan, as amended by Senate Committee, on page 1, in line 37, by striking “farm” and inserting “agricultural”; also in line 37 by striking “sub-”; in line 38, by striking all before the period and inserting “this section, when such person is a member of the public on the land for recreational purposes”;

On page 2, following line 6, by inserting:

“(h) “agricultural equipment” means equipment including, but not limited to, tractors, trailers, combines, tillage implements, bailers and other equipment used in planting, cultivating, irrigating or harvesting agricultural products, excluding self-propelled machines de-

signed primarily for the transportation of persons or property on a street or highway.”, and **SB 134** be passed as further amended.

Sub SB 83 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Umbarger, on page 7, in line 28, following the stricken period, by inserting “Revenue from such fund shall be deposited in the special liability expense fund of the school district.”

Senator Schodorf further amended the bill, on page 7, following line 13, by inserting:

“(g) The board of any district may make capital outlay expenditures for the acquisition of equipment and repair of school buildings from the general fund.”, and **Sub SB 83** be passed as amended.

SB 94; Sub SB 125, Sub SB 144 be passed over and retain a place on the calendar.

CHANGE OF REFERENCE

The President withdrew **Sub SB 125** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Ways and Means.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 66; Sub SB 83; SB 101, SB 131, SB 134, SB 146** were advanced to Final Action and roll call.

SB 66. An act relating to title insurance; prohibiting certain practices; amending K.S.A. 2002 Supp. 40-2404 and repealing the existing section.

On roll call, the vote was: Yeas 34, Nays 4, Present and Passing 2, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Corbin, Donovan, Downey, Emler, Feleciano, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Vratil, Wagle.

Nays: Clark, Pugh, Tyson, Umbarger.

Present and Passing: Gilstrap, Teichman.

The bill passed, as amended.

Sub SB 83. An act concerning school districts; relating to certain funds; amending K.S.A. 12-2615, 44-505c, 72-4141, 72-5390, 72-6409, 72-6425, 72-6428, 72-8209, 72-8302, 72-8316, 72-8317, 72-8415a, 72-8415b, 75-6110 and 79-2927 and repealing the existing sections; also repealing K.S.A. 72-3703.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The substitute bill passed, as amended.

SB 101. An act concerning elections; relating to the presidential primary; relating to the date when certain primary elections are held; amending K.S.A. 12-1254, 25-203, 25-306b, 25-1115, 25-1220, 25-2102, 25-2502, 25-3205, 25-3901, 25-3904, 25-3904a, 25-3905, 25-4501 and 25-4505 and K.S.A. 2002 Supp. 25-205, 25-302a, 25-1122 and 25-4005 and repealing the existing sections.

On roll call, the vote was: Yeas 20, Nays 20, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brungardt, Buhler, Bunten, Corbin, Downey, Emler, Goodwin, Jackson, Kerr, Lee, Morris, Oleen, Salmans, Schodorf, Teichman, Umbarger, Vratil.

Nays: Barone, Brownlee, Clark, Donovan, Feleciano, Gilstrap, Gooch, Haley, Harrington, Hensley, Huelskamp, Jordan, Lyon, O'Connor, Pugh, Schmidt, Steineger, Taddiken, Tyson, Wagle.

A constitutional majority having failed to vote in favor of the bill, **SB 101** did not pass.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **SB 101** because I strongly support the amendment to the bill which moves the primary election to a date which I believe will encourage greater voter participation. I do not support the underlying bill because I believe we should not cancel the 2004 Kansas Presidential Preference Primary Election. Cancelling the election solely because we believe we cannot afford it is contrary to my commitment to the democratic process.

I would vote to fund the Presidential Primary Election.—DAVID ADKINS

MR. PRESIDENT: I vote no on **SB 101**. Moving the primary to late August is not necessary and may jeopardize the window of opportunity for some candidates to receive campaign support due to changes in federal campaign law.

With our generous advance voting laws, Kansans have every opportunity to exercise their responsibility to vote in the primary.—KARIN BROWNLEE

Senators Jordan, Lyon and O'Connor request the record to show they concur with the "Explanation of Vote" offered by Senator Brownlee on **SB 101**.

MR. PRESIDENT: I vote "NO" on **SB 101**; doing away with the Presidential Primary in Kansas for the third consecutive time. In a nation where a margin of only 300,000 voting people stood between a U.S. Presidential victor and the one who was vanquished (who won anyway due only to the Electoral College) in 2000. . . . surely, quite possibly, 300,000 voting Kansans could make the difference as to whom our party or your party or even, a *third party's, nominee* might be for U.S. President.

It is anti-democratic to continue every four years to deny Kansans the right to vote in a presidential primary.

Why should the rest of America make these primary decisions for Kansans because of a price tag? Is \$1.5 million the price to quash democracy?—DAVID HALEY

Senators Barone, Feleciano and Hensley requests the record to show they concur with the "Explanation of Vote" offered by Senator Haley on **SB 101**.

SB 131, An act relating to livestock; concerning application of certain requirements to public livestock markets; amending K.S.A. 65-171d 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: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

SB 134, An act concerning land and water recreational areas; relating to limited liability; agritourism and ecotourism; amending K.S.A. 58-3201 and 58-3202 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: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

SB 146, An act concerning income taxation; relating to dividend income; amending K.S.A. 2002 Supp. 79-32,117 and repealing the existing section.

On roll call, the vote was: Yeas 23, Nays 15, Present and Passing 2, Absent or Not Voting 0.

Yeas: Barnett, Brungardt, Buhler, Bunten, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Jackson, Lee, Morris, Oleen, Schodorf, Steineger, Taddiken, Teichman, Umbarger.

Nays: Adkins, Allen, Brownlee, Clark, Harrington, Huelskamp, Jordan, Lyon, O'Connor, Pugh, Salmans, Schmidt, Tyson, Vratil, Wagle.

Present and Passing: Barone, Kerr.

The bill passed.

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

AFTERNOON SESSION

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

COMMITTEE OF THE WHOLE

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

On motion of Senator Adkins the following report was adopted:

Recommended **SB 111**, **SB 171**, **SB 178**, **SB 199** be passed.

The committee report on **SB 209** recommending a **Sub for SB 209** be adopted, and the substitute bill be passed.

SCR 1604 be adopted.

SB 145, **SB 206** be amended by adoption of the committee amendments, and the bills be passed as amended.

SCR 1606 be amended by adoption of the committee amendments, and the resolution be adopted as amended.

SB 110 be amended by adoption of the committee amendments, be further amended by motion of Senator Schmidt, on page 12, line 39, by striking the word "court" and inserting in lieu thereof the word "commissioner", and **SB 110** be passed as further amended.

SB 187, be amended by adoption of the committee amendments and the bill be passed as amended.

Having voted on the prevailing side, Senator Gilstrap moved the Senate reconsider its action on **SB 187**. The motion carried and the bill was further amended by motion of Senator Gilstrap, as amended by Senate Committee, on page 1, in line 29, by striking "Wyandotte"; in line 30, by striking "county" and inserting "unified government of Wyandotte county/Kansas City, Kansas";

On page 2, in line 9, by striking "Wyandotte county" and inserting "unified government of Wyandotte county/Kansas City, Kansas", and **SB 187** be passed as further amended.

Sub SB 144 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Teichman on page 5, by striking line 43;

On page 6, by striking lines 1 through 18 and inserting:

"Sec. 11. (a) No consumer reporting agency shall provide or sell data or lists that include any information, in whole or in part, which was submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score. Such information includes, but is not limited to:

(1) The expiration date of an insurance policy or any other information that may identify any time period during which a consumer's insurance may expire; and

(2) the terms and conditions of the consumer's insurance coverage.

(b) The restrictions provided in subsection (a) of this section do not apply to:

(1) Any data or list the consumer reporting agency supplies to the insurance agent from whom information was received;

(2) the insurer for whom such agent acted; or

(3) such insurer's affiliates or holding companies.

(c) Nothing in this section shall be construed to prohibit or restrict any insurer from obtaining a claims history report or a motor vehicle report.", and the Committee recommended **Sub SB 144** be passed over and retain a place on the calendar.

SB 230 be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 110, SB 111, SB 145, SB 171, SB 178, SB 187, SB 199, SB 206; Sub SB 209; SCR 1604, SCR 1606** were advanced to Final Action and roll call.

SB 110, An act concerning securities; relating to certain unlawful acts and penalties therefor; investigation by commission; civil penalties; amending K.S.A. 17-1264 and 17-1265 and K.S.A. 2002 Supp. 17-1253, 17-1254, 17-1255, 17-1266a and 21-4704 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: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

SB 111, An act concerning crimes, criminal procedure and punishment; relating to sentencing for burglary; expansion or construction of minimum security facilities; amending K.S.A. 2002 Supp. 21-4704 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: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Feleciano, Gilstrap, Harrington, Hensley, Huelskamp, Jackson, Jordan, Lee, Lyon, Morris, O'Connor, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Downey, Emler, Gooch, Goodwin, Haley, Kerr, Oleen.

The bill passed.

EXPLANATION OF VOTE

MR. PRESIDENT: I am always in favor of protecting the public from criminals and criminal actions. **SB 111** sets a precedent of presuming that offenders imprisoned for burglary are to be classified as minimum custody inmates. I am of the opinion that custody classification for inmates should not be dependent on convictions for specific crimes. The classification should be left to the Department of Corrections after evaluation of behavior, past criminal record, and other relevant factors.

I vote no on **SB 111**.—GRETA GOODWIN

Senators Downey and Kerr request the record to show they concur with the "Explanation of Vote" offered by Senator Goodwin on **SB 111**.

SB 145, An act concerning the state board of agriculture; amending K.S.A. 74-560 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: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

SB 171, An act concerning crimes, criminal procedure and punishment; relating to theft; amending K.S.A. 2002 Supp. 21-3701 and repealing the existing section.

On roll call, the vote was: Yeas 20, Nays 20, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Brungardt, Buhler, Bunten, Corbin, Downey, Gooch, Goodwin, Haley, Jackson, Jordan, Kerr, Morris, Oleen, Pugh, Salmans, Tyson, Umbarger, Vratil, Wagle.

Nays: Adkins, Allen, Barone, Brownlee, Clark, Donovan, Emler, Feleciano, Gilstrap, Harrington, Hensley, Huelskamp, Lee, Lyon, O'Connor, Schmidt, Schodorf, Steineger, Taddiken, Teichman.

A constitutional majority having failed to vote in favor of the bill, **SB 171** did not pass.

SB 178, An act concerning cities; relating to improvements and payment therefor; amending K.S.A. 12-6a01, 12-6a04 and 12-6a08 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: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

SB 187, An act concerning forensic services and laboratory analysis; relating to fees; amending K.S.A. 2002 Supp. 28-176 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: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

SB 199, An act concerning the fitting and dispensing of hearing aids; amending K.S.A. 74-5810 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: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

SB 206, An act concerning civil procedure; relating to habeas corpus; amending K.S.A. 60-1507 and repealing the existing section.

On roll call, the vote was: Yeas 27, Nays 13, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Buhler, Bunten, Downey, Gilstrap, Goodwin, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Morris, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Brownlee, Clark, Corbin, Donovan, Emler, Feleciano, Gooch, Haley, Harrington, Lyon, O'Connor, Pugh, Tyson.

The bill passed, as amended.

Sub SB 209, An act concerning fire districts, fire departments and fire companies; relating to expenses incurred in response to a fire that has been determined to be arson; amending K.S.A. 2002 Supp. 12-3915, 19-3601a, 19-3612e, 19-3616, 19-3620, 21-4603d, 80-1501, 80-1514a, 80-1544, 80-1904, 80-1913, 80-1917 and 80-1921 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: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The substitute bill passed.

SCR 1604, A Concurrent Resolution urging the United States President and Congress to approve federal energy legislation that promotes the use of ethanol and biodiesel fuel.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The resolution was adopted.

SCR 1606, A Concurrent Resolution urging the state of Kansas to promote the use of ethanol and biodiesel fuels.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Donovan, Jordan, Kerr.

The resolution was adopted, as amended.

REPORT ON ENGROSSED BILLS

SB 68, SB 79, SB 102, SB 106, SB 115, SB 133, SB 147, SB 166, SB 167, SB 221, SB 238 reported correctly engrossed February 27, 2003.

On motion of Senator Oleen, the Senate recessed until 5:50 p.m.

EVENING SESSION

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

COMMITTEE OF THE WHOLE

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

On motion of Senator Adkins the following report was adopted:

Recommended **SB 240** be passed.

The committee report on **SB 153** recommending a **Sub for SB 153** be adopted, and the substitute bill be passed.

The committee report on **SB 204** recommending a **Sub for SB 204** be adopted, and the substitute bill be passed.

SB 151, SB 155, SB 205 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 103 be amended by adoption of the committee amendments, be further amended by motion of Senator Allen, as amended by Senate Committee, on page 1, in line 18, by striking “, incompetence”

Senator O'Connor further amended the bill, as amended by Senate Committee, on page 2, in line 12, by striking all following “(a)”; by striking all in lines 13 through 20; in line 21, by striking all preceding “determines” and inserting “The secretary of state shall review the application and shall either certify such application or notify the recall committee of the grounds of refusal. The secretary of state shall deny certification if the secretary of state”; in line 36, by striking all following the period; by striking all in lines 37 through 43;

On page 3, by striking all in lines 1 and 2; in line 3, by striking “(c)” and inserting “(b)”; in line 5, by striking “recall board’s” and inserting “secretary of state’s”;

On page 4, in line 31, by striking all following “(b)”; by striking all in lines 32 through 41; in line 42, by striking “determines that” and inserting:

“(b) Before any petition for recall of a local officer is circulated, the county election officer shall transmit a copy of such petition to the county or district attorney or to the attorney designated pursuant to subsection (c) for determination of the sufficiency of the grounds stated in the petition for recall. Within five days of receipt of the copy of the petition from the county election officer, the county or district attorney or the attorney designated pursuant to subsection (c) shall make such determination and notify the county election officer and the recall committee of such determination. Such determination shall include whether”;

On page 5, by striking all in lines 12 through 22 and inserting:

“(c) In the case of a recall of the county or district attorney, a judge of the district court of such county shall designate an attorney to determine the sufficiency of the grounds stated in the petition for recall. Such attorney shall perform the duties imposed on the county or district attorney in the recall of other local officers.”;

Also on page 5, in line 25, by striking “county recall board’s” and inserting “county or district attorney’s”, and **SB 103** be passed as further amended.

SB 191 be amended by adoption of the committee amendments, be further amended by motion of Senator Schmidt, as amended by Senate Committee, on page 1, in line 32, before “diesel” by inserting “state-owned”, and **SB 191** be passed as further amended.

SB 225 be amended by adoption of the committee amendments, be further amended by motion of Senator Wagle, as amended by Senate Committee, on page 12, in line 1, by striking the period and inserting a semicolon; after line 1, by inserting the following:

“(22) naturopathic doctors practicing their profession when registered and practicing in accordance with the naturopathic doctor registration act.”;

On page 33, preceding line 25, by inserting the following:

“New Sec. 29. A policy of professional liability insurance approved by the commissioner of insurance and issued by an insurer duly authorized to transact business in this state shall be maintained in effect by each licensed physical therapist actively practicing in this state as a condition to rendering professional services as a physical therapist in this state.”;

And by renumbering sections accordingly, and **SB 225** be passed as further amended.

A motion by Senator Clark to amend **SB 225** failed and the following amendment was rejected: as amended by Senate Committee, on page 2, in line 18, before the last semicolon, by inserting “but not manipulation of the articulation of the human body”

SB 235 be amended by adoption of the committee amendments, be further amended by motion of Senator Brownlee, as amended by Senate Committee, on page 4 in line 42, by striking “nonmetropolitan” and inserting “areas outside of metropolitan”; in line 43, by striking all before the comma and inserting “federal office of management and budget as of June 30, 1999”

Senator Kerr further amended the bill, as amended by Senate Committee, on page 5, following line 3, by inserting the following:

“(aa) “Marketing study” means a study conducted to examine the impact of the redevelopment or special bond project upon similar businesses in the projected market area.

(bb) “Projected market area” means any area within the state in which the redevelopment or special bond project is projected to have a substantial fiscal or market impact upon businesses in such area.”;

Also on page 5, following line 26, by inserting the following:

“(2) a summary of the marketing study done as defined in K.S.A. 12-1770a, and amendments thereto, which will be an open record.”;

And by renumbering the remaining subsections accordingly, and **SB 235** be passed as further amended.

SB 123 be passed over and retain a place on the calendar.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 249, An act concerning lotteries; authorizing electronic gaming machines and other lottery games at certain locations; amending K.S.A. 74-8702, 74-8710 and 74-8711 and

K.S.A. 2002 Supp. 19-101a and 79-4805 and repealing the existing sections, by Committee on Ways and Means.

CHANGE OF REFERENCE

The President withdrew **SB 94** from the calendar under the heading of General Orders, and referred the bill to the Committee on Ways and Means.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Friday, February 28, 2003.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.
PAT SAVILLE, *Secretary of the Senate*.

