

Journal of the Senate

TWENTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 9, 2006—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,

I have taken the liberty of paraphrasing the twenty-third Psalm, the most recognized chapter in the book of Psalms, in order to personalize the life of a legislator.

The Lord is my provider, I shall not want.
He makes me to lie down when I want to go faster.
He leads me to be still to avoid being out of order.
He restores my soul.
He leads me in the path of doing right for His name's sake.

Yea, though I walk or ride through the valley of opposition in my district,
I will fear no surprises, for You walk or ride with me.
My God, and my staff, they comfort me.

You prepare a table of eggs and bacon before me in the presence of my constituency.
My coffee cup runs dry over and over.

Hopefully goodness and mercy shall follow me all through the session,
And I shall dwell in the House or Senate for another term.

I pray in the name of Jesus Christ.

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 532, An act concerning fair associations; relating to tax levies for buildings and grounds; repealing K.S.A. 2005 Supp. 2-131d, by Committee on Agriculture.

SB 533, An act creating a citizens commission on separation of powers; prescribing powers and duties and providing for payment of certain expenses, by Committee on Federal and State Affairs.

SB 534, An act concerning industrial windpower electric generation facilities; relating to standards for operation, by Senator Wagle.

SB 535, An act concerning sales taxation; relating to sales of new motor vehicles; taxation of rebates; amending K.S.A. 2005 Supp. 79-3602 and repealing the existing section, by Senator Wagle.

SB 536, An act concerning medicaid; relating to reimbursement; amending K.S.A. 59-2249 and 59-3086 and K.S.A. 2005 Supp. 21-3847 and repealing the existing sections, by Committee on Judiciary.

SB 537, An act concerning public health, relating to vaccinations, by Senator Hensley.

SB 538, An act concerning property taxation; relating to school ad valorem tax levy and exemption therefrom; amending K.S.A. 2005 Supp. 72-6431 and 79-201x and repealing the existing sections, by Senators Hensley, Barone, Betts, Gilstrap, Goodwin, Haley and Kelly.

SB 539, An act concerning casualty insurance companies; relating to certain requirements regarding filing rates, forms and premiums; amending K.S.A. 40-954 and 40-955 and K.S.A. 2005 Supp. 40-216 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SB 540, An act concerning water and watercourses; relating to dams; amending K.S.A. 2005 Supp. 82a-302 and repealing the existing section, by Committee on Natural Resources.

SB 541, An act concerning taxation; relating to the franchise tax; rates; elimination; amending K.S.A. 2005 Supp. 79-5401 and repealing the existing section, by Committee on Elections and Local Government.

SB 542, An act concerning the equine industry; creating the equine industry research and promotion board, by Committee on Agriculture.

SB 543, An act creating the Kansas ethanol council, by Committee on Agriculture.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Agriculture: **SCR 1620; SR 1809**.

Commerce: **SB 531**.

Education: **SB 525; HB 2593**.

Federal and State Affairs: **SB 527; HB 2595**.

Financial Institutions & Insurance: **SB 522; HB 2691**.

Judiciary: **SB 523**.

Natural Resources: **SB 524, SB 526**.

Public Health and Welfare: **SB 528, SB 529, SB 530**.

Utilities: **HB 2599, HB 2673**.

Ways and Means: **HB 2394, HB 2574**.

CHANGE OF REFERENCE

The President withdrew **SB 457** from the Committee on Elections and Local Government and rereferred the bill separately to the Committee on Elections and Local Government.

Also, the President referred the bill to the Committee on Education (separately).

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2581**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2581 was thereupon introduced and read by title.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

SB 261, An act concerning juvenile offenders; enacting the revised Kansas juvenile justice code; amending K.S.A. 8-237, 8-2117, 12-16,119, 21-4633, 28-170a, 38-140, 38-1518, 39-754, 39-756, 39-756a, 39-1305, 60-460, 60-3614, 65-516, 65-6001, 74-7335, 74-8810, 75-5229, 75-7025, 75-7026, 75-7028, 76-3203 and 76-3204 and K.S.A. 2005 Supp. 20-167, 20-302b, 21-2511, 21-3413, 21-3520, 21-3612, 21-3809, 21-3810, 22-2805, 22-4701, 28-170, 28-172b, 28-176, 39-709, 39-970, 41-727, 65-1626, 65-5117, 74-5344, 75-3728e, 75-4362, 75-5206, 75-5220, 75-7023, 75-7024, 76-172, 76-381, 76-12a25 and 76-3205 and repealing the existing sections; also repealing K.S.A. 38-1601, 38-1603, 38-1604, 38-1605, 38-1606, 38-1606a, 38-1607, 38-1608, 38-1612, 38-1613, 38-1614, 38-1615, 38-1616, 38-1617, 38-1618, 38-1621, 38-1622, 38-1623, 38-1624, 38-1625, 38-1626, 38-1627, 38-1628, 38-1629, 38-1630, 38-1631, 38-1632, 38-1633, 38-1634, 38-1636, 38-1637, 38-1638, 38-1639, 38-1640, 38-1641, 38-1651, 38-1652, 38-1653, 38-1654, 38-1655, 38-1656, 38-1657, 38-1658, 38-1661, 38-1662, 38-1663, 38-1664, 38-1666, 38-1667, 38-1668, 38-1671, 38-1673, 38-1674, 38-1675, 38-1676, 38-1677, 38-1681, 38-1682, 38-1683, 38-1684, 38-1685, 38-1691, 38-16,111, 38-16,116, 38-16,117, 38-16,118, 38-16,119, 38-16,120, 38-16,126, 38-16,127,

38-16,128, 38-16,129, 38-16,131, 38-16,132, 38-16,133, 38-1812 and 38-1813 and K.S.A. 2005 Supp. 38-1602, 38-1609, 38-1610, 38-1611, 38-16,135, 38-1665, 38-1692, 38-16,134 and 38-1635, 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

SB 324, An act concerning economic development; amending K.S.A. 2005 Supp. 74-50,154, 74-99c02, 74-99c05 and 74-99c09 and repealing the existing sections; also repealing K.S.A. 2005 Supp. 74-99c06, 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

SB 344, An act regulating traffic; concerning school zones; authorizing school crossing guards; amending K.S.A. 2005 Supp. 8-1486 and 8-2118 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

SB 346, An act regulating traffic; concerning television-type receiving equipment; amending K.S.A. 8-1748 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Bruce, Kelly, McGinn, Schmidt D, Wagle.

The bill passed.

SB 347, An act regulating traffic; doubling speeding fines in school zones; amending K.S.A. 2005 Supp. 8-2118 and repealing the existing section, 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Haley.

The bill passed.

SB 357, An act concerning income taxation; relating to failure to file return or filing incorrect or insufficient return; penalties; amending K.S.A. 2005 Supp. 79-3228 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 14, Nays 26, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Brungardt, Donovan, Emler, Francisco, Goodwin, Hensley, Jordan, Lee, Morris, Pine, Reitz, Vratil, Wysong.

Nays: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Gilstrap, Haley, Huelskamp, Journey, Kelly, McGinn, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson.

A constitutional majority having failed to vote in favor of the bill, **SB 357** did not pass.

SB 396, An act relating to motor vehicles; concerning the United States military veteran license plate; amending K.S.A. 2005 Supp. 8-1,146 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

SB 412, An act concerning motorized toy vehicles; relating to the regulation thereof; amending K.S.A. 8-1437, 8-1439, 8-1439a, 8-1575, 8-1701 and 8-2002 and K.S.A. 2005 Supp. 8-126, 8-1486 and 8-2118 and repealing the existing sections, 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: Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Journey, Lee, McGinn, Morris, O'Connor, Ostmeyer, Petersen, Reitz, Steineger, Teichman, Vratil.

Nays: Apple, Bruce, Donovan, Huelskamp, Jordan, Kelly, Palmer, Pine, Pyle, Schmidt D, Schmidt V, Schodorf, Taddiken, Umbarger, Wagle, Wilson, Wysong.

The bill passed, as amended.

SB 413, An act regulating traffic; concerning golf carts; amending K.S.A. 8-128, 8-1701, 8-1717 and 8-2002 and K.S.A. 2005 Supp. 8-126, 8-1486 and 8-2118 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Emler, Schmidt D, Wagle.

The bill passed, as amended.

HB 2352, An act creating the revised Kansas code for care of children; amending K.S.A. 5-512, 28-170a, 38-140, 38-538, 38-1604, 38-1608, 38-1664, 38-1813, 39-754, 39-756, 39-756a, 39-1305, 59-2129, 59-3059, 59-3060, 60-452a, 60-460, 60-1610, 65-516, 65-6205, 72-962, 72-1113, 72-53,106, 72-5427 and 75-7025 and K.S.A. 2005 Supp. 20-164, 20-302b, 20-319, 21-3604, 21-3612, 21-3721, 21-3843, 23-605, 28-170, 28-172b, 39-709, 44-817, 65-1626, 72-962, 75-4332, 75-7023 and 76-729 and repealing the existing sections; also repealing K.S.A. 38-1501, 38-1504, 38-1505a, 38-1510, 38-1511, 38-1512, 38-1513, 38-1513a, 38-1514, 38-1515, 38-1516, 38-1517, 38-1518, 38-1519, 38-1520, 38-1521, 38-1522b, 38-1523, 38-1523a, 38-1524, 38-1525, 38-1526, 38-1527, 38-1528, 38-1529, 38-1530, 38-1531, 38-1532, 38-1533, 38-1534, 38-1535, 38-1536, 38-1537, 38-1541, 38-1542, 38-1543, 38-1544, 38-1545, 38-1546, 38-1551, 38-1552, 38-1553, 38-1554, 38-1555, 38-1556, 38-1557, 38-1558, 38-1559, 38-1561, 38-1562, 38-1563, 38-1564, 38-1565, 38-1566, 38-1567, 38-1568, 38-1569, 38-1570, 38-1581, 38-1582, 38-1584, 38-1585, 38-1586, 38-1587, 38-1591, 38-1592, 38-1593, 38-1594, 38-1595, 38-1596, 38-1597, 38-1598, 38-1599 and 38-

15,100 and K.S.A. 2005 Supp. 38-1502, 38-1503, 38-1505, 38-1513b, 38-1522, 38-1552a, 38-1583 and 38-15,101, 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 68** be amended on page 1, in line 18, after "made", by inserting "or contracted to be made"; in line 19, by striking "\$50" and inserting "\$1,000"; in line 21, by striking "upon" and inserting "before"; in line 23, before the period, by inserting ", as well as the name of the candidate whose nomination, election or defeat is expressly advocated"; in line 27, before the period, by inserting ", as well as the name of the candidate whose nomination, election or defeat is expressly advocated"; by striking all in lines 30 and 31 and inserting:

"(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."; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 381** be amended on page 1, in line 36, after the period by inserting "If the defendant was not born in the United States, the court must find, prior to the plea, that the defendant has been informed that a conviction or guilty plea may have immigration or naturalization consequences."; and the bill be passed as amended.

Committee on **Natural Resources** recommends **SB 386** be passed.

Committee on **Public Health and Welfare** recommends **SB 426** be passed.

Also, **HB 2284**, as amended by Senate Committee during the 2005 regular session of the legislature, be passed.

Committee on **Transportation** recommends **HB 2628**, **HB 2629**, **HB 2630**, **HB 2631** be passed.

Also, **SB 374** be amended on page 1, in line 40, by striking "identified with a product"; by striking all in lines 41 through 43;

On page 2, in line 1, by striking all before "for" and inserting "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"; after line 17 by inserting the following:

"Sec. 2. K.S.A. 2005 Supp. 8-142 is hereby amended to read as follows: 8-142. It shall be unlawful for any person to commit any of the following acts and except as otherwise provided, violation is subject to penalties provided in K.S.A. 8-149, and amendments thereto:

First: To operate, or for the owner thereof knowingly to permit the operation, upon a highway of any vehicle, as defined in K.S.A. 8-126, and amendments thereto, which is not registered, or for which a certificate of title has not been issued or which does not have attached thereto and displayed thereon the license plate or plates assigned thereto by the division for the current registration year, including any registration decal required to be affixed to any such license plate pursuant to K.S.A. 8-134, and amendments thereto, subject to the exemptions allowed in K.S.A. 8-135, 8-198 and 8-1751a, and amendments thereto. A violation of this *First* by a person unlawfully claiming that a motor vehicle is exempt from registration as a self-propelled crane under subsection (b) of K.S.A. 8-128, and amendments thereto, shall constitute an unclassified misdemeanor punishable by a fine of not less than \$500.

Second: To display or cause or permit to be displayed, or to have in possession, any registration receipt, certificate of title, registration license plate, registration decal, accessible parking placard or accessible parking identification card knowing the same to be fictitious or to have been canceled, revoked, suspended or altered. A violation of this part *Second* shall constitute an unclassified misdemeanor punishable by a fine of not less than \$100 and forfeiture of the item. A mandatory court appearance shall be required of any person

violating this part *Second*. This part *Second* shall not apply to the possession of: (a) Model year license plates displayed on antique vehicles as allowed under K.S.A. 8-172, and amendments thereto; or (b) distinctive license plates allowed under K.S.A. 8-1,147, and amendments thereto.

Third: To lend to or knowingly permit the use by one not entitled thereto any registration receipt, certificate of title, registration license plate or registration decal issued to the person so lending or permitting the use thereof.

Fourth: To fail or refuse to surrender to the division, upon demand, any registration receipt, certificate of title, registration license plate or registration decal which has been suspended, canceled or revoked.

Fifth: To use a false or fictitious name or address in any application for a certificate of title, the registration of any vehicle or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application.

Sixth: For the owner of a motor vehicle to file application for the registration thereof, in any county other than the county in which the owner of the vehicle resides or has a bona fide place of business, which place is not an office or facility established or maintained solely for the purpose of obtaining registration.

Seventh: To operate on the highways of this state a vehicle or combination of vehicles whose weight with cargo is in excess of the gross weight for which the truck or truck tractor propelling the same is registered, except as provided by K.S.A. 8-143, and amendments thereto, and subsections (a) to (f), inclusive, of K.S.A. 8-1911, and amendments thereto. Such gross weight shall not be required to be in excess of the limitations described by K.S.A. 8-1908 and 8-1909, and amendments thereto, for such vehicle or combination of vehicles of which it is a part. Any person or owner who operates a vehicle in this state with a registration in violation of subsection (2) of K.S.A. 8-143, and amendments thereto, shall be required to pay the additional fee equal to the fee required by the applicable registration fee schedule, less the amount of the fee required for the gross weight for which the vehicle is registered to obtain the proper registration therewith. A fine of \$75 shall be assessed for all such gross weight registration violations.

Eighth: To operate a local truck or truck tractor which is registered for a gross weight of more than 12,000 pounds as a common carrier outside a radius of three miles beyond the corporate limits of the city in which such vehicle was based when registered and licensed or to operate any other local truck or truck tractor licensed for a gross weight of more than 12,000 pounds outside a radius of 25 miles beyond the corporate limits of the city in which such vehicle was based when registered and licensed, except as provided in subsection (2) of K.S.A. 8-143 or 8-143i, and amendments thereto.

Ninth: To operate on the highways of this state a farm truck or farm trailer other than to transport: (a) Agricultural products produced by such owner; (b) commodities purchased by the owner for use on the farm owned or rented by the owner of such vehicles; (c) commodities for religious or educational institutions being transported by the owner of such vehicles for charity and without compensation of any kind, except as provided in subsection (c) of K.S.A. 66-1,109, and amendments thereto; or (d) sand, gravel, slag stone, limestone, crushed stone, cinders, black top, dirt or fill material to a township road maintenance or construction site of the township in which the owner of such truck resides.

Tenth: To operate a farm truck or truck tractor used in combination with a trailer or semitrailer for a gross weight which does not include the empty weight of the truck or truck tractor or of the combination of any truck or truck tractor and any type of trailer or semitrailer, plus the maximum weight of cargo which will be transported on or with the same; and such farm truck or farm truck tractor used to transport a gross weight of more than 54,000 pounds shall have durably lettered on the side of the motor vehicle the words "farm vehicle not for hire."

Eleventh: To operate on the highways of this state any truck or truck tractor without the current quarter of license fees being paid thereon.

Twelfth: To operate on the highways of this state a truck or truck tractor without carrying in the cab a copy of the registration receipt for such vehicle or without having painted or otherwise durably marked on said vehicle on both sides thereof, the gross weight for which

said vehicle is licensed and the name and address of the owner thereof, except as provided in K.S.A. 8-143e, and amendments thereto.

Thirteenth: To operate on the highways of this state a farm trailer carrying more than 6,000 pounds without being registered and the registration fees paid thereon.

Fourteenth: To operate more than 6,000 miles in any calendar year any truck or truck tractor which has been registered and licensed to operate not more than 6,000 miles in such calendar year, as provided in subsection (2) of K.S.A. 8-143, and amendments thereto, unless the additional fee required by said subsection (2) has been paid.

Fifteenth: For any owner who has registered a truck or truck tractor on the basis of operating not more than 6,000 miles to fail to keep the records required by the director of vehicles, or to fail to comply with rules and regulations of the secretary of revenue relating to such registration.

Sixteenth: To operate a vehicle or combination of vehicles on the national system of interstate and defense highways with a gross weight greater than permitted by the laws of the United States Congress.”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 18, by striking “is” and inserting “and K.S.A. 2005 Supp. 8-142 are”;

On page 1, in the title, in line 10, after “8-128” by inserting “and K.S.A. 2005 Supp. 8-142”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 475** be amended on page 3, in line 7, after the period by inserting “Annually, beginning January 15, 2008, REAP, regional economic area partnership, shall evaluate and report on the effectiveness of this program to the house of representatives committee on appropriations and the senate committee on ways and means.”; in line 9, by striking “\$1,000,000” and inserting “\$1,666,667”; 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 359**, **SB 420**, **SB 422**, **SB 496**; **HB 2698** be passed.

SB 329, **SB 352** be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 418 be amended by adoption of the committee amendments, be further amended by motion of Senator Vratil, as amended by Senate Committee, on page 1, after line 22 by inserting the following:

“(c) “Athletic event” means athletic instruction, practice or competition held at any location and including any number of athletes.”

Senator Wysong moved to amend **SB 418**, as amended by Senate Committee, on page 8, after line 1, by inserting the following:

“(17) any place where organized religious worship occurs, except that nothing in this section would preclude a law enforcement officer or a retired law enforcement officer from carrying a concealed weapon in a place where organized religious worship occurs.”;

And by renumbering the remaining paragraphs accordingly

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

On roll call, the vote was: Yeas 16, Nays 24, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Betts, Brungardt, Emler, Francisco, Goodwin, Haley, Hensley, Kelly, Lee, McGinn, Reitz, Schmidt V, Schodorf, Vratil, Wysong.

Nays: Apple, Barnett, Barone, Brownlee, Bruce, Donovan, Gilstrap, Huelskamp, Jordan, Journey, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson.

The motion failed and the amendment was rejected.

Senator Wysong moved to further amend **SB 418**, as amended by Senate Committee, on page 8, after line 1, by inserting the following:

“(17) public libraries;”;

And by renumbering the remaining paragraphs accordingly

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

On roll call, the vote was: Yeas 15, Nays 25, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Betts, Brungardt, Emler, Francisco, Goodwin, Hensley, Kelly, Lee, Reitz, Schmidt V, Schodorf, Steineger, Vratil, Wysong.

Nays: Apple, Barnett, Barone, Brownlee, Bruce, Donovan, Gilstrap, Haley, Huelskamp, Jordan, Journey, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Taddiken, Teichman, Umbarger, Wagle, Wilson.

The motion failed and the amendment was rejected.

Senator Goodwin moved to amend **SB 418**, on page 8, line 7, by inserting after facility: any Veterans Hospital, home, or facility providing health care to Veterans

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

On roll call, the vote was: Yeas 13, Nays 26, Present and Passing 0, Absent or Not Voting 1.

Yeas: Allen, Betts, Brungardt, Francisco, Goodwin, Hensley, Kelly, Lee, Reitz, Schmidt V, Schodorf, Vratil, Wysong.

Nays: Apple, Barnett, Barone, Brownlee, Bruce, Donovan, Emler, Gilstrap, Huelskamp, Jordan, Journey, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson.

Absent or Not Voting: Haley.

The motion failed and the amendment was rejected.

The Committee recommended **SB 418**, be passed as further amended.

Sub SB 370 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Brungardt, on page 1, in line 15, after “holding” by inserting “a valid farm winery license in this state or a person which holds”; in line 16, after “state”, by inserting “and which manufacturers wine”; in line 17, by striking “resident of” and inserting “consumer in”; in line 21, by striking “together with” and inserting “and, if applicable,”; in line 26, by striking “resident” and inserting “consumer”; in line 27, by striking “resident’s” and inserting “consumer’s”; in line 29, by striking “The” and inserting “if the wine is shipped from outside the state, the”; in line 36, by striking “into the state” and inserting “pursuant to this section”; in line 38, after “(6)”, by inserting “if the wine is shipped from outside the state,”; in line 39, by striking “residents of” and inserting “consumers in”; in line 43, after “(7)”, by inserting “if the permit holder is an out-of-state shipper.”;

On page 2, in line 2, by striking “The holder of a shipping permit” and inserting “If the holder of the permit is an out-of-state shipper, the permittee”; in line 33, by striking all after “wine”; in line 34, by striking all before “by” and inserting “in the manner provided by this section”;

On page 3, in line 18, by striking the second “and”; in line 20, by striking “inside and”; in line 22, before the period, by inserting “; and

(7) the sale and shipping of wine within this state pursuant to a permit issued pursuant to section 1, and amendments thereto”;

In the title, in line 9, after “shipping” by inserting “within,”

Senator Brungardt further amended **Sub SB 370**, on page 1, in line 36, after “state”, by inserting “pursuant to this section”; in line 39, after “due” by inserting “pursuant to K.S.A. 41-501 et seq., and amendments thereto,”; also in line 39, by striking all after “state”; in line 40, by striking all before “during” and inserting “pursuant to this section”;

On page 5, after line 5, by inserting:

“New Sec. 3. (a) Notwithstanding any other provision of law to the contrary, a person holding a valid license authorizing the manufacture of wine in another state may sell wine to a consumer in this state in accordance with this section if the person holds a valid large winery shipping permit issued by the director. Such permit may be obtained by filing with the director an application on a form prescribed by rules and regulations of the secretary of revenue and paying a permit fee of \$50 for an original permit and \$10 for a renewal

permit together with a true copy of the applicant's current beverage license authorizing the manufacture of wine in another state.

(b) Sale and shipment of wine pursuant to a large winery shipping permit shall be subject to the following:

(1) The consumer to whom the permit holder sells wine shall be at least 21 years of age and the wine must be for such consumer's personal use and not for resale;

(2) the wine shall be a wine not otherwise available for sale in this state under the liquor control act;

(3) the wine shall be shipped in the original unopened container to a licensed distributor, who shall deliver the wine to the licensed premises of the retailer designated by the consumer;

(4) the consumer shall pay the purchase price and all shipping costs directly to the permit holder and shall designate the retailer to whose licensed premises the wine is to be delivered by the distributor;

(5) the permit holder shall report annually to the director of taxation the total wine sold and shipped into the state pursuant to this section during the preceding calendar year;

(6) the permit holder shall remit annually to the director all gallonage taxes due pursuant to K.S.A. 41-501 et seq., and amendments thereto, on sales to consumers in this state pursuant to this section during the preceding calendar year, the amount of such taxes to be calculated as if the wine were manufactured in this state; and

(7) the permit holder shall allow the director of taxation to perform an audit of the out-of-state shipper's records upon request.

(c) The holder of a large winery shipping permit shall be deemed to have appointed the secretary of state as the resident agent and representative of the licensee to accept service of process from the secretary of revenue, the director and the courts of this state concerning enforcement of this section, K.S.A. 41-501 et seq., and amendments thereto, and any related laws and rules and regulations and to accept service of any notice or order provided for in the liquor control act. Acceptance of such service of process by the secretary of state shall be fully binding upon the permit holder.

(d) After notice and an opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the director may refuse to issue or renew or may revoke a large winery shipping permit upon a finding that the permit holder has failed to comply with any provision of this section or K.S.A. 41-501 et seq., and amendments thereto, or any rules and regulations adopted pursuant to such statutes.

(e) Wine sold and shipped by a person holding a large winery shipping permit shall be delivered to a licensed distributor for delivery to the licensed premises of the licensed retailer designated by the consumer. The retailer shall collect taxes with regard to such wine pursuant to K.S.A. 79-4101 et seq., and amendments thereto, in accordance with rules and regulations of the secretary, as if the sale were made in this state. The retailer may charge the consumer a handling fee of not more than \$5 for each delivery of wine received by the retailer on behalf of the consumer. The retailer shall ensure that the consumer is 21 or more years of age. The consumer shall be required to pay any amount due for taxes and the retailer's handling fee before the retailer releases the wine to the consumer. The consumer shall remove the wine from the retailer's licensed premises within 30 days after the retailer receives the wine or such other period of time as agreed upon by the retailer and the consumer. The secretary shall provide by rules and regulations for the method of disposition of such wine if the consumer fails to remove it from the retailer's licensed premises within such time.

(f) No person shall sell and ship wine as provided in this section unless such person possesses a valid large winery shipping permit issued pursuant to this section. Any person who knowingly makes, participates in, transports, imports or receives any wine in violation of this subsection is guilty of a class B misdemeanor.

(g) The secretary of revenue may adopt rules and regulations to implement, administer and enforce the provisions of this section.

(h) This section shall be part of and supplemental to the Kansas liquor control act.”;

By renumbering the remaining sections

Senator Brownlee moved **Sub SB 370** be returned to the Committee on Federal and State Affairs.

The motion failed and the Committee recommended **Sub SB 370** 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 329, SB 352, SB 359; Sub SB 370; SB 418, SB 420, SB 422, SB 496; HB 2698** were advanced to Final Action and roll call.

SB 329. An act concerning education; relating to curriculum standards; amending K.S.A. 2005 Supp. 72-6439 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

SB 352. An act concerning the uniform commercial code; relating to secured transactions; amending K.S.A. 2005 Supp. 84-9-705 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

SB 359. An act concerning taxation; relating to refund funds; limitations; amending K.S.A. 12-1694a, 12-16,100, 79-6a09, 79-3461 and 79-41a09 and K.S.A. 2005 Supp. 79-15,113, 79-32,105, 79-3311, 79-3491a, 79-3620, 79-3710, 79-4227 and 79-4711 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

Sub SB 370. An act concerning wines; authorizing sale and shipping within, into and out of the state under certain circumstances; amending K.S.A. 2005 Supp. 41-308a and repealing the existing section.

On roll call, the vote was: Yeas 36, Nays 4, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Brownlee, Ostmeyer, Palmer, Pyle.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **Sub SB 370** because the bill does not provide a positive business structure for small wineries to sell their products directly to consumers. We must do better in helping these start up businesses reach their market. There is no other consumer product which is distributed in this manner.—KARIN BROWNLEE

Senator Ostmeyer requests the record to show he concurs with the "Explanation of Vote" offered by Senator Brownlee on **Sub SB 370**.

SB 418, An act enacting the personal and family protection act; providing for licensure to carry certain concealed weapons; prohibiting certain acts and prescribing penalties for violations; amending K.S.A. 2005 Supp. 12-4516, 21-4201 and 21-4619 and repealing the existing sections.

On roll call, the vote was: Yeas 29, Nays 11, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Barone, Brownlee, Bruce, Donovan, Emler, Gilstrap, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson.

Nays: Allen, Betts, Brungardt, Francisco, Goodwin, Lee, Reitz, Schmidt V, Schodorf, Vratil, Wysong.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I again reluctantly vote "Aye" on this issue on **SB 418**. Although I believe it's hypocritical to preach Peace/Non-Violence to our children and come home from work or even still, ridiculously enough, from *church* unbuckling shoulder harnesses and unloading purses...statistically, there are already a bunch of folks in my District and in your Districts (otherwise law-abiding citizens)...single parents; small business owners; even some seniors...who are *already* carrying weapons concealed in their pant leg or their waistband or their handbag or the car glove box.

Many have contacted me expressing their desire to be "legal." Many others want to learn; to train; to license and to carry. With Missouri on my direct Eastern border...all of us feel uncertain and even threatened by the continuing lack of clarity in that state's CCW laws and the effect on Kansas. Although, I personally believe that **SB 418** might represent more of a danger to our society than an assurance of greater public safety, today I again respond with a vote of "Aye" to ease the anxiety of these fearful, but vocal, few.—DAVID HALEY

SB 420, An act concerning children; relating to support thereof; amending K.S.A. 2005 Supp. 23-4,118 and repealing the existing section; also repealing K.S.A. 39-7,153.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

SB 422, An act concerning surety bonds; eliminating requirements for multiple sureties; amending K.S.A. 19-621, 32-950, 41-805, 58-2802, 68-1402, 75-110 and 78-102 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

SB 496, An act relating to certificates of title; concerning notice of security interest; amending K.S.A. 2005 Supp. 8-135 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee,

McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

HB 2698, An act concerning sales taxation; relating to retailers' sales tax in Sherman county; amending K.S.A. 12-195b and K.S.A. 2005 Supp. 12-187 and 12-189 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Friday, February 10, 2006.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

