

# Journal of the Senate

TWENTY-SIXTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, February 13, 2007—2:30 p.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

President Morris introduced as guest chaplain Bishop Gerald Mansholt, Central States Synod-the Evangelical Lutheran Church in America, Kansas City, Missouri, who delivered the invocation:

Most Holy God, we acknowledge you as Creator and Redeemer of the universe. You are the Judge to whom all are accountable. Before you we admit our finitude and failings, our sin and inability to live together with righteousness toward all. Have mercy upon us, O God. Renew our hearts and minds that we may walk in your ways.

In days of complexity and challenge, keep us mindful of the simple truth that we are to love and care for one another. In times of strident voices, empower us with reconciling love to seek understanding and strive for the good of all. Keep us humble and free us from forces within and beyond us that lead us to ignore the cries and concerns of those who have no voice.

Gracious God, we give thanks for all who have embraced the call to public service. Bless them with holy counsel that they may be good stewards of everything that has been entrusted to them.

Bless us all this day with holy love, wisdom, comfort and peace from above. Help us to remember that, while you know each of us by name, your love is for all the world.

Amen.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **HB 2208**.

Assessment and Taxation: **HB 2240**.

Commerce: **HB 2169**.

Education: **SB 345**.

Elections and Local Government: **HB 2081, HB 2217**.

Federal and State Affairs: **HB 2068**.

Financial Institutions & Insurance: **HB 2107, HB 2115, HB 2116**.

Judiciary: **HB 2074, HB 2087, HB 2190, HB 2193, HB 2230, HB 2232, HB 2233**.

Utilities: **HB 2033, HB 2127**.

## COMMUNICATIONS FROM STATE OFFICERS

DEPARTMENT ON AGING

February 6, 2007

Kathy Greenlee, Secretary of Aging, submitted the SFY 2006 Annual Report for July 1,

2005, through June 30, 2006, as well as a copy of the annual report for the Client Assessment Referral and Evaluation (CARE) program for the State Fiscal Year 2006.

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

#### CONFIRMATION OF APPOINTMENTS

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

Senator D. Schmidt moved the following appointment be confirmed as recommended by the Standing Senate Committee:

*By the Governor:*

On the appointment to the:

*State Bank Commissioner:*

John T. Thull, serves at the pleasure of the Governor.

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

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

The appointment was confirmed.

#### FINAL ACTION ON CONSENT CALENDAR

**SB 121, SB 191** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

**SB 121**, An act concerning reciprocal insurance companies; pertaining to attorneys-in-fact; amending K.S.A. 40-1611 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, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**SB 191**, An act relating to wildlife; concerning big game and wild turkey violations; amending K.S.A. 2006 Supp. 32-1032 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, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

#### REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 198** be passed.

Also, **SB 92** be amended on page 1, in line 39, after "of" by inserting "title and"; also in line 39, by striking "or ownership";

On page 2, in line 4, by striking "daily" and by inserting "weekly"; and the bill be passed as amended.

Committee on **Commerce** begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the Governor:

Kansas Development Finance Authority: K.S.A. 74-8903

Brett A. Reber, term expires January 15, 2011

Timothy C. Shaller, term expires January 15, 2011

Also, **SB 235** be amended on page 13, in line 4, by striking “any individual who is” and inserting “service performed by”; and the bill be passed as amended.

Committee on **Education** recommends **SB 138** be amended on page 1, in line 14, by striking “13” and inserting “15”; in line 37, by striking “and”; in line 38, by striking “; of which” and inserting “. Of such members”; in line 43, by striking the period and inserting “;

(6) one member appointed by the commissioner. Such member shall be a representative of health insurance companies doing business in the state of Kansas; and

(7) one member appointed by the chief administrative officer of the Capper Foundation located in Topeka, Kansas.”;

On page 2, in line 5, by striking “six” and inserting “eight” also in line 5, by striking “Six” and inserting “Eight”; in line 17, by striking “Members” and inserting “Except as provided by this subsection, members”; in line 21, following the period by inserting “No member of the task force shall be paid an amount as provided in subsection (e) of K.S.A. 75-3223, and amendments thereto, if such member receives an amount from another governmental or private entity for the purpose for which such amount is payable under subsection (e) of K.S.A. 75-3223, and amendments thereto.”;

On page 3, in line 6, by striking “behavioral therapy”; in line 14, by striking “PDD???” and “PDD-NOS” and inserting “pervasive development disorders and pervasive development disorder, not otherwise specified”; and the bill be passed as amended.

Committee on **Elections and Local Government** recommends **SB 133** be passed.

Also, **SB 159** be amended on page 3, in line 17, by striking “request of” and inserting “written designation by”; also in line 17, by striking “member of the voter’s family” and inserting “person other than the voter”; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 113** be amended on page 2, in line 2, by striking “On and after the effective date of this act: (1) Each”; in line 9, by striking all after the stricken material; by striking all in line 10; in line 11, by striking all before the stricken material; in line 15, by striking all after the stricken material; by striking all in line 16 and inserting the following:

“On and after the effective date of this act: (1)(A) For each license biennium commencing on and after January 1, 2011, each licensed insurance agent who is an individual and holds a property or casualty qualification, or both, or a personal lines qualification shall biennially obtain a minimum of 24 C.E.C.’s in courses as required in subsection (g) which shall include at least three hours of instruction in insurance ethics and legal compliance.

(B) For the license biennium commencing on January 1, 2009 and ending on December 31, 2010, each licensed insurance agent who is an individual and holds a property or casualty qualification, or both, or a personal lines qualification shall biennially obtain a minimum of 18 C.E.C.’s in courses as required in subsection (g) which shall include at least three hours of instruction in insurance ethics and legal compliance.

(C) For the license biennium ending on December 31, 2008, each licensed insurance agent who is an individual and holds a property or casualty qualification, or both, or a personal lines qualification shall biennially obtain a minimum of 12 C.E.C.’s in courses as required in subsection (g) which shall include at least one hour of instruction in insurance ethics and legal compliance. No more than three of the required C.E.C.’s shall be in insurance agency management.

(2) (A) For each license biennium commencing on and after January 1, 2011, each licensed insurance agent who is an individual and holds a life, accident and health, or variable contracts qualification, or any combination thereof, shall biennially complete 24 C.E.C.’s in courses as required in subsection (g) which shall include at least three hours of instruction in insurance ethics and legal compliance.

(B) For the license biennium commencing on January 1, 2009 and ending on December 31, 2010, each licensed insurance agent who is an individual and holds a life, accident and health, or variable contracts qualification, or any combination thereof, shall biennially complete 18 C.E.C.’s in courses as required in subsection (g) which shall include at least three hours of instruction in insurance ethics and legal compliance.

(C) For the license biennium ending on December 31, 2008, each licensed insurance agent who is an individual and holds a life, accident and health, or variable contracts qualification, or any combination thereof, shall biennially complete 12 C.E.C.'s in courses as required in subsection (g) which shall include at least one hour of instruction in insurance ethics and legal compliance. No more than three of the required C.E.C.'s shall be in insurance agency management.”;

Also on page 2, in line 17, by striking “(2)” and inserting “(3)”; in line 22, by striking “(3)” and inserting “(4)”; in line 28, by striking “(4)” and inserting “(5)”; in line 39, by striking all after “(d)”; in line 40, by striking “ance agent who holds a license”;

On page 3, in line 6, by striking “shall”; by striking all in lines 7 through 9 and inserting the following:

“On and after the effective date of this act, each individual insurance agent who holds a license with both a property or casualty qualification, or both, and a life, accident and health or variable contracts qualification, or any combination thereof, shall biennially obtain a minimum of 24 C.E.C.'s in courses certified in accordance with subsection (g) which shall include at least six hours in property and casualty, at least six hours in life, accident and health or variable contracts and three hours of instruction in insurance ethics and legal compliance. Each individual insurance agent who holds a license with both a property or casualty qualification, or both, and a life, accident and health or variable contracts qualification, or any combination thereof, and who earns C.E.C.'s from courses certified by the commissioner as qualifying for credit in any class, may apply, at such insurance agent's option, such C.E.C.'s toward either the property or casualty continuing education requirement or to the life, accident and health or variable contracts continuing education requirement. However, no C.E.C. shall be applied to satisfy both the biennial property or casualty requirement, or both, and the biennial requirement for life, accident and health or variable contracts, or any combination thereof.”;

Also on page 3, in line 12, after “(f) (1)” by inserting “(A)”fer line 20, by inserting the following:

“(B) Subject to the provisions of subparagraphs (C), (D) and (E), an individual insurance agent may carryover C.E.C.'s to the next biennium if:

(i) Such insurance agent has obtained all C.E.C.'s necessary for compliance in the current biennium; and

(ii) the C.E.C.'s to be carried over are not needed to satisfy the requirements of the current, or any prior, biennium.

(C) For the biennium ending on December 31, 2008, no C.E.C.'s shall be carried over to the next biennium.

(D) For the biennium commencing on January 1, 2009, and ending on December 31, 2010, up to a maximum of nine C.E.C.'s may be carried over to the next biennium.

(E) For the biennium commencing on or after January 1, 2011, up to a maximum of 12 C.E.C.'s may be carried over to the next biennium.”;

On page 5, in line 17, after the period, by inserting the following:

“Each approved course, program of study or subject shall be assigned by the commissioner to one or both of the following classes:

(A) Property and casualty; or

(B) life insurance (including annuity and variable contracts) and accident and health insurance.”; and the bill be passed as amended.

Also, **SB 239** be amended on page 2, in line 15, by striking “15” and inserting “30”; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 56** be amended on page 1, in line 18, by striking “\$15” and inserting “\$10”; in line 20, by striking “\$10” and inserting “\$7”; in line 21, following the period by inserting the following:

“(b) The clerks of the district courts may tax an additional fee in an amount determined by the trustees of the law library in each county for the benefit and account of the law library in each such county. Such additional library fee shall not be more than \$4 in all cases.

(c)”;

Also on page 1, in line 22, by striking “subsection” and inserting “section”; in line 27, by striking “(b)” and inserting “(d)”; in line 28, following the period by inserting “The fees provided for by subsection (b) shall be in addition to the docket fees established by law.”; in line 29, by striking “(c)” and inserting “(e)”; following line 34, by inserting the following: “(f) The additional library fee under subsection (b) shall be considered a docket fee for purposes of K.S.A. 60-2001 et seq., and amendments thereto.”;

And the bill be passed as amended.

Also, **SB 103** be amended on page 2, in line 3, by striking “may” and inserting “shall”; in line 14, before the period, by inserting “, except after an escape and when necessary to assist in apprehension”; in line 21, before the semicolon, by inserting “or (a)(4)”; and the bill be passed as amended.

**SB 118** be amended on page 1, in line 22, by striking “this requirement shall not apply to.”; by striking all in lines 23 and 24; in line 25, by striking all preceding the period and inserting “as provided by K.S.A. 2006 Supp. 38-2219, and amendments thereto”;

On page 3, following line 6, by inserting the following:

“Sec. 2. K.S.A. 2006 Supp. 38-2219 is hereby amended to read as follows: 38-2219. Evaluation of development or needs of child. (a) *Of the child.* (1) *Psychological or emotional.* During proceedings under this code, the court, on its own motion or the motion of the guardian *ad litem* for the child, a party or interested party, may order an evaluation and written report of the psychological or emotional development or needs of a child who is the subject of the proceedings. The court may refer the child to a state institution for the evaluation if the secretary advises the court that the facility is a suitable place to care for, treat or evaluate the child and that space is available. The expenses of transportation to and from the state facility may be paid as a part of the expenses of temporary care and custody. The child may be referred to a mental health center or qualified professional for evaluation and the expenses of the evaluation may be considered as expenses of the proceedings and assessed as provided in this code. If the court orders an evaluation as provided in this section, a parent of the child shall have the right to obtain an independent evaluation at the expense of the parent.

(2) *Medical.* During proceedings under this code, the court may order an examination and report of the medical condition and needs of a child who is the subject of the proceedings. The court may also order a report from any physician who has been attending the child stating the diagnosis, condition and treatment afforded the child.

(3) *Educational.* During proceedings under this code, the court may order the chief administrative officer of the school which the child attends or attended to provide to the court information that is readily available which the school officials believe would properly indicate the educational needs of the child. The order may direct that the school conduct an educational needs assessment of the child and send a report of the assessment to the court. The educational needs assessment may include a meeting involving any of the following: The child’s parents; the child’s teachers; the school psychologist; a school special services representative; a representative of the secretary; the child’s court-appointed special advocate; the child’s foster parents, legal guardian and permanent custodian; a court services officer; and other persons that the chief administrative officer of the school or the officer’s designee considers appropriate.

(b) *Physical, psychological or emotional status of parent or custodian.* During proceedings under this code, the court may order: (1) An examination, evaluation and report of the physical, mental or emotional status or needs of a parent, a person residing with a parent or any person being considered as one to whom the court may grant custody; and

(2) written reports from any qualified person concerning the parenting skills or ability to provide for the physical, mental or emotional needs and future development of a child by a parent or any person being considered as one to whom the court may grant custody.

(c) *Court consideration.* Written reports and other materials relating to the examinations and evaluations under subsections (a) and (b) may be considered by the court after an adjudication or entry of an order of informal supervision, if introduced as evidence. If requested by any party or interested party in attendance, the court shall require the person preparing the report or other material to appear and testify.

~~(b)~~ (c) *Confidentiality of reports.* (1) *Reports of court ordered examination or evaluation.* No confidential relationship of physician and patient, psychologist and client or social worker and client shall arise from an examination or evaluation ordered by the court.

(2) *Report from private physician, psychologist or therapist.* When any interested party or party to proceedings under this code wishes the court to have the benefit of information or opinion from a physician, psychologist, registered marriage and family therapist or social worker with whom there is a confidential relationship, the party or interested party may waive the confidential relationship but restrict the information to be furnished or testimony to be given to those matters material to the issues before the court. If requested, the court may make an *in camera* examination of the proposed witness or the file of the proposed witness and excise any matters that are not material to the issues before the court.

(d) *Reports prepared by a court-appointed special advocate or by the secretary.* All reports prepared by a court-appointed special advocate or by the secretary shall be filed with the court and shall be made available as provided in subsection (e).

(e) *Availability of reports.* (1) All reports provided for in this section shall be filed with the court and shall be made available to counsel for all parties prior to any scheduled hearing on any matter addressed by the report. If a party is not represented by counsel, the report shall be made available to that party.

(2) All reports provided for in this section may be read by the court at any stage of a proceeding under this code, but no fact or conclusion derived from a report shall be used as the basis for an order of the court unless the information has been admitted into evidence following an opportunity for the parties to examine, under oath, the person who prepared the report. If the court is in possession of a report that has not been offered into evidence, the court shall inquire whether there is an objection to admitting the report into evidence. If there is no objection, the court may admit the report into evidence.”;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 7, by striking “38-2249 is” and inserting “38-2219 and 38-2249 are”;

On page 1, in the title, in line 10, following “Supp.” by inserting “38-2219 and”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

**SB 162** be amended on page 1, in line 15, before “Unless” by inserting “(a)”; and the bill be passed as amended.

**SB 166** be amended on page 3, in line 23, by striking “that is comparable to an offense defined” and inserting “which is substantially the same as a crime listed”; in line 27, following the period, by inserting “The provisions of this paragraph shall not apply to a crime committed under K.S.A. 2006 Supp. 21-3522, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as K.S.A. 2006. Supp. 21-3522, and amendments thereto.”; and the bill be passed as amended.

#### REPORT ON ENGROSSED BILLS

**SB 21, SB 114, SB 158, SB 160** reported correctly engrossed February 12, 2007.

#### REPORT ON ENROLLED BILLS

**SB 33, SB 36** reported correctly enrolled, properly signed and presented to the governor on February 13, 2007.

#### 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 Allen in the chair.

On motion of Senator Allen the following report was adopted:

Recommended **SB 41, SB 73, SB 87, SB 137, SB 154, SB 165, SB 190** be passed.

The Committee recommend **SB 76** be passed.

A motion by Senator Haley to amend **SB 76** failed and the following amendment was rejected: On page 1, after line 31, by inserting the following:

“New Sec. 2. (a) When the appraised value of real property owned by a decedent is not greater than \$20,000 according to the most recent tax appraisal, and the decedent’s estate is not subject to homestead or allowances pursuant to K.S.A. 59-401 et seq., and amendments thereto, or such homestead or allowances are waived, any successor or successors of the decedent, if entitled thereto by will or by intestate succession may file a notification of interest in title in the office of the register of deeds in the county where such real property is located. Such notification shall state:

(1) The decedent’s name and the date of death;  
 (2) the address and legal description of such real property owned by the decedent;  
 (3) the name and current address of the successor or successors filing the notification;  
 (4) the relationship between the decedent and the successor or successors filing the notification;

(5) that the taxes on such real property are current and not delinquent;  
 (6) that such real property is free of liens and encumbrances; and  
 (7) that the successor or successors filing the notification of interest in title is filing a claim to be the vested owner of such real property.

(b) A certified copy of the decedent’s death certificate shall be attached to such form.

(c) If after three years from the date of the filing of the notification of interest in title, no other successor or successors has petitioned the court in a probate proceeding pursuant to the Kansas probate code, the successor or successors who filed the notification of interest in title shall be the legal owner of such real property.

(d) If any time during the three-year period, another successor petitions the court to establish a probate proceeding, and if during the probate proceeding the court establishes a determination of descent that allows another party to receive a share of such real property, such other party shall be liable to the successor or successors filing the notification of interest in title for any taxes paid on such real property and reasonable maintenance and upkeep costs documented and paid by such successor or successors.”;

And by renumbering the remaining sections accordingly;

Also on page 1, in the title, in line 10, after “personal” by inserting “and real property”  
 Senator Hensley moved to amend **SB 83** on page 1, in line 14, after “Section 1.” by inserting “On the effective date of this act.”;

On page 20, after line 32, by inserting the following:

“Sec. 2. On July 1, 2007, K.S.A. 2006 Supp. 44-705 is hereby amended to read as follows: 44-705. Except as provided by K.S.A. 44-757 and amendments thereto, an unemployed individual shall be eligible to receive benefits with respect to any week only if the secretary, or a person or persons designated by the secretary, finds that:

(a) The claimant has registered for work at and thereafter continued to report at an employment office in accordance with rules and regulations adopted by the secretary, except that, subject to the provisions of subsection (a) of K.S.A. 44-704 and amendments thereto, the secretary may adopt rules and regulations which waive or alter either or both of the requirements of this subsection (a).

(b) The claimant has made a claim for benefits with respect to such week in accordance with rules and regulations adopted by the secretary.

(c) The claimant is able to perform the duties of such claimant’s customary occupation or the duties of other occupations for which the claimant is reasonably fitted by training or experience, and is available for work, as demonstrated by the claimant’s pursuit of the full course of action most reasonably calculated to result in the claimant’s reemployment except that, notwithstanding any other provisions of this section, an unemployed claimant otherwise eligible for benefits shall not become ineligible for benefits because of the claimant’s enrollment in and satisfactory pursuit of approved training, including training approved under section 236(a)(1) of the trade act of 1974.

For the purposes of this subsection, an inmate of a custodial or correctional institution shall be deemed to be unavailable for work and not eligible to receive unemployment compensation while incarcerated.

(d) The claimant has been unemployed for a waiting period of one week or the claimant is unemployed and has satisfied the requirement for a waiting period of one week under the shared work unemployment compensation program as provided in subsection (k)(4) of

K.S.A. 44-757 and amendments thereto, which period of one week, in either case, occurs within the benefit year which includes the week for which the claimant is claiming benefits. *The waiting week requirement of this subsection (d) shall not apply to new claims filed during the period commencing July 1, 2007, and ending on June 30, 2009.* No week shall be counted as a week of unemployment for the purposes of this subsection (d):

- (1) If benefits have been paid for such week;
- (2) if the individual fails to meet with the other eligibility requirements of this section; or
- (3) if an individual is seeking unemployment benefits under the unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such state or of the United States finally determines that the claimant is not entitled to unemployment benefits under such other law, this subsection (d)(3) shall not apply.

(e) For benefit years established on and after the effective date of this act, the claimant has been paid total wages for insured work in the claimant's base period of not less than 30 times the claimant's weekly benefit amount and has been paid wages in more than one quarter of the claimant's base period, except that the wage credits of an individual earned during the period commencing with the end of a prior base period and ending on the date on which such individual filed a valid initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has returned to work and subsequently earned wages for insured work in an amount equal to at least eight times the claimant's current weekly benefit amount.

(f) The claimant participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and needs reemployment services pursuant to a profiling system established by the secretary, unless the secretary determines that: (1) The individual has completed such services; or (2) there is justifiable cause for the claimant's failure to participate in such services.

(g) The claimant is returning to work after a qualifying injury and has been paid total wages for insured work in the claimant's alternative base period of not less than 30 times the claimant's weekly benefit amount and has been paid wages in more than one quarter of the claimant's alternative base period if:

- (1) The claimant has filed for benefits within four weeks of being released to return to work by a licensed and practicing health care provider.
- (2) The claimant files for benefits within 24 months of the date the qualifying injury occurred.
- (3) The claimant attempted to return to work with the employer where the qualifying injury occurred, but the individual's regular work or comparable and suitable work was not available.”;

And by renumbering sections accordingly; Also on page 20, in line 33, before K.S.A. by inserting “On the effective date of this act,”;

On page 31, after line 41, by inserting the following:

“Sec. 4. On July 1, 2007, K.S.A. 2006 Supp. 44-757 is hereby amended to read as follows: 44-757. *Shared work unemployment compensation program.* (a) As used in this section:

- (1) “Affected unit” means a specified department, shift or other unit of two or more employees that is designated by an employer to participate in a shared work plan.
- (2) “Fringe benefit” means health insurance, a retirement benefit received under a pension plan, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that is provided by an employer.
- (3) “Fund” has the meaning ascribed thereto by subsection (k) of K.S.A. 44-703 and amendments thereto.
- (4) “Normal weekly hours of work” means the lesser of 40 hours or the average obtained by dividing the total number of hours worked per week during the preceding twelve-week period by the number 12.
- (5) “Participating employee” means an employee who works a reduced number of hours under a shared work plan.
- (6) “Participating employer” means an employer who has a shared work plan in effect.
- (7) “Secretary” means the secretary of labor or the secretary's designee.



(8) "Shared work benefit" means an unemployment compensation benefit that is payable to an individual in an affected unit because the individual works reduced hours under an approved shared work plan.

(9) "Shared work plan" means a program for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work.

(10) "Shared work unemployment compensation program" means a program designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment compensation benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages.

(b) The secretary shall establish a voluntary shared work unemployment compensation program as provided by this section. The secretary may adopt rules and regulations and establish procedures necessary to administer the shared work unemployment compensation program.

(c) An employer who wishes to participate in the shared work unemployment compensation program must submit a written shared work plan to the secretary for the secretary's approval. As a condition for approval, a participating employer must agree to furnish the secretary with reports relating to the operation of the shared work plan as requested by the secretary. The employer shall monitor and evaluate the operation of the established shared work plan as requested by the secretary and shall report the findings to the secretary.

(d) The secretary may approve a shared work plan if:

- (1) The shared work plan applies to and identifies a specific affected unit;
- (2) the employees in the affected unit are identified by name and social security number;
- (3) the shared work plan reduces the normal weekly hours of work for an employee in the affected unit by not less than 20% and not more than 40%;
- (4) the shared work plan applies to at least 10% of the employees in the affected unit;
- (5) the shared work plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit;
- (6) the employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of temporary layoffs that would affect at least 10% of the employees in the affected unit and that would result in an equivalent reduction in work hours;
- (7) the employer has filed all reports required to be filed under the employment security law for all past and current periods and has paid all contributions, benefit cost payments, or if a reimbursing employer has made all payments in lieu of contributions due for all past and current periods; and

(8) (A) a contributing employer must be eligible for a rate computation under subsection (a)(2) of K.S.A. 44-710a, and amendments thereto, and is not a negative account employer as defined by subsection (d) of K.S.A. 44-710a and amendments thereto; (B) a rated governmental employer must be eligible for a rate computation under subsection (g) of K.S.A. 44-710d and amendments thereto.

(e) If any of the employees who participate in a shared work plan under this section are covered by a collective bargaining agreement, the shared work plan must be approved in writing by the collective bargaining agent.

(f) A shared work plan may not be implemented to subsidize seasonal employers during the off-season or to subsidize employers who have traditionally used part-time employees.

(g) The secretary shall approve or deny a shared work plan no later than the 30th day after the day the shared work plan is received by the secretary. The secretary shall approve or deny a shared work plan in writing. If the secretary denies a shared work plan, the secretary shall notify the employer of the reasons for the denial.

(h) A shared work plan is effective on the date it is approved by the secretary, except for good cause a shared work plan may be effective at any time within a period of 14 days prior to the date such plan is approved by the secretary. The shared work plan expires on the last day of the 12th full calendar month after the effective date of the shared work plan.

(i) An employer may modify a shared work plan created under this section to meet changed conditions if the modification conforms to the basic provisions of the shared work

plan as approved by the secretary. The employer must report the changes made to the shared work plan in writing to the secretary before implementing the changes. If the original shared work plan is substantially modified, the secretary shall reevaluate the shared work plan and may approve the modified shared work plan if it meets the requirements for approval under subsection (d). The approval of a modified shared work plan does not affect the expiration date originally set for that shared work plan. If substantial modifications cause the shared work plan to fail to meet the requirements for approval, the secretary shall deny approval to the modifications as provided by subsection (g).

(j) Notwithstanding any other provisions of the employment security law, an individual is unemployed and is eligible for shared work benefits in any week in which the individual, as an employee in an affected unit, works for less than the individual's normal weekly hours of work in accordance with an approved shared work plan in effect for that week. The secretary may not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of the employment security law that relates to availability for work, active search for work or refusal to apply for or accept work with an employer other than the participating employer.

(k) An individual is eligible to receive shared work benefits with respect to any week in which the secretary finds that:

(1) The individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week;

(2) the individual is able to work and is available for additional hours of work or full-time work with the participating employer;

(3) the individual's normal weekly hours of work have been reduced by at least 20% but not more than 40%, with a corresponding reduction in wages; and

(4) the individual's normal weekly hours of work and wages have been reduced as described in paragraph (3) of this subsection (k) for a waiting period of one week which occurs within the period the shared work plan is in effect, which period includes the week for which the individual is claiming shared work benefits. *The waiting week requirement of this subsection (k)(4) shall not apply to new claims filed during the period commencing July 1, 2007, and ending on June 30, 2009.*

(l) The secretary shall pay an individual who is eligible for shared work benefits under this section a weekly shared work benefit amount equal to the individual's regular weekly benefit amount for a period of total unemployment multiplied by the nearest full percentage of reduction of the individual's hours as set forth in the employer's shared work plan. If the shared benefit amount is not a multiple of \$1, the secretary shall reduce the amount to the next lowest multiple of \$1. All shared work benefits under this section shall be payable from the fund.

(m) The secretary may not pay an individual shared work benefits for any week in which the individual performs paid work for the participating employer in excess of the reduced hours established under the shared work plan.

(n) An individual may not receive shared work benefits and regular unemployment compensation benefits in an amount that exceeds the maximum total amount of benefits payable to that individual in a benefit year as provided by subsection (f) of K.S.A. 44-704 and amendments thereto.

(o) An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year is an exhaustee under K.S.A. 44-704a and 44-704b, and amendments thereto, and is entitled to receive extended benefits under such statutes if the individual is otherwise eligible under such statutes.

(p) The secretary may terminate a shared work plan for good cause if the secretary determines that the shared work plan is not being executed according to the terms and intent of the shared work unemployment compensation program.

(q) Notwithstanding any other provisions of this section, an individual shall not be eligible to receive shared work benefits for more than 26 calendar weeks during the 12-month period of the shared work plan, except that two weeks of additional benefits shall be payable to claimants who exhaust regular benefits and any benefits under any other federal or state extended benefits program during the period July 1, 2003 through June 30, 2004. No week shall be counted as a week for which an individual is eligible for shared work benefits for

the purposes of this section unless the week occurs within the 12-month period of the shared work plan.

(r) No shared work benefit payment shall be made under any shared work plan or this section for any week which commences before April 1, 1989.

(s) This section shall be construed as part of the employment security law.”;

And by renumbering sections accordingly;

Also on page 31, in line 42, after “Sec. 3.” by inserting “On the effective date of this act.”;

On page 32, before line 1, by inserting the following:

“Sec. 6. On July 1, 2007, K.S.A. 2006 Supp. 44-705 and 44-757 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 10, after “rates;” by inserting “eligibility for benefits;” also in line 10, by striking “and 44-710a” and inserting “, 44-705, 44-710a and 44-757”

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, Barone, Betts, Francisco, Gilstrap, Goodwin, Haley, Hensley, Journey, Kelly, Lee, Petersen, Reitz, Schodorf, Steineger, Wysong.

Nays: Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Huelskamp, Jordan, Lynn, McGinn, Morris, Ostmeyer, Palmer, Pine, Pyle, Schmidt D, Schmidt V, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson.

The motion failed and the amendment was rejected.

The Committee recommended **SB 83** be passed.

The committee report on **SB 89** recommending a **Sub SB 89** be adopted, and the substitute bill be passed.

**SB 74, SB 81, SB 97, SB 106, SB 146, SB 176, SB 192** be amended by adoption of the committee amendments, and the bills be passed as amended.

**SB 197** be passed over and retain a place on the calendar.

#### FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **SB 41, SB 73, SB 74, SB 76, SB 81, SB 83, SB 87; Sub SB 89; SB 97, SB 106, SB 137, SB 146, SB 154, SB 165, SB 176, SB 190, SB 192** were advanced to Final Action and roll call.

**SB 41**, An act concerning negligence; relating to standard of care; amending K.S.A. 60-19a02 and repealing the existing section.

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

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

Nays: Francisco, Goodwin.

The bill passed.

**SB 73**, An act relating to mortgage registration fees; concerning certain exemptions; amending K.S.A. 79-3102 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, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**SB 74**, An act relating to the probate code; concerning the recovery of certain medical assistance; amending K.S.A. 59-2222, 59-2247 and 59-3086 and repealing the existing sections.

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

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

Nays: Haley.

The bill passed, as amended.

**SB 76**, An act relating to the probate code; concerning the transfer of certain personal property; amending K.S.A. 59-1507b 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, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**SB 81**, An act concerning the state board of healing arts; fingerprinting and criminal history record checks.

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, Lynn, McGinn, Morris, 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 83**, An act concerning the employment security law; relating to contribution rates; amending K.S.A. 2006 Supp. 44-703 and 44-710a 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, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**SB 87**, An act concerning the Kansas offender registration act; prohibition from adopting or enforcing the residency restrictions; amending K.S.A. 2006 Supp. 22-4913 and repealing the existing section.

On roll call, the vote was: Yeas 32, Nays 8, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, McGinn, Morris, Ostmeyer, Palmer, Pine, Reitz, Schmidt D, Schmidt V, Steineger, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Gilstrap, Huelskamp, Lynn, Petersen, Pyle, Schodorf, Taddiken, Wagle.

The bill passed.

**Sub SB 89**, An act relating to water; concerning the Republican river and the disposition of moneys recovered from certain litigation; establishing the Republican river water conservation projects fund.

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

The substitute bill passed.

**SB 97**, An act concerning crimes, punishment and criminal procedure; relating to burglary; sentencing; amending K.S.A. 2006 Supp. 21-4704 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, Lynn, McGinn, Morris, 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 106**, An act concerning the practice of nursing; amending K.S.A. 65-1124 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, Lynn, McGinn, Morris, 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 137**, An act concerning banks; prohibiting the establishment of branches with commercial affiliates.

On roll call, the vote was: Yeas 38, Nays 2, 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, Kelly, Lee, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Journey, Lynn.

The bill passed.

**SB 146**, An act relating to solid waste; concerning the waste tire management fund; amending K.S.A. 2006 Supp. 65-3424g 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, Lynn, McGinn, Morris, 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 154**, An act concerning municipal bonds; relating to the limit on the amount of the bond issue; amending K.S.A. 10-106 and repealing the existing section.

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

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

Nays: Journey, Lynn, Pyle.

The bill passed.

**SB 165**, An act concerning claims against the state; relating to the limitation on inmate claims payable by the secretary of corrections; amending K.S.A. 46-920 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, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**SB 176**, An act concerning dental hygienists; relating to issuance of permits, authorized practice; amending K.S.A. 2006 Supp. 65-1456 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, Lynn, McGinn, Morris, 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 190**, An act relating to the Kansas storage tank act; concerning training for operators of underground storage tanks; funding; amending K.S.A. 65-34,110 and 65-34,114 and K.S.A. 2006 Supp. 65-34,132 and 65-34,134 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, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**SB 192**, An act relating to hunting; concerning permits to take big game; amending K.S.A. 2006 Supp. 32-970 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, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

#### CHANGE OF REFERENCE

The President withdrew **SB 197** from the Calendar under the heading of General Orders, and rereferred the bill to the Committee on Financial Institutions & Insurance.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, February 14, 2007.

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

PAT SAVILLE, *Secretary of the Senate*.

