

Journal of the Senate

FORTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 18, 2008—2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-eight senators present.
Senator Betts and Vratil were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

It seems that many people doubt that You can do anything that can improve their life.

Here are some Bible verses which assert that You are able to do everything You have promised.

He is able to guard what I have entrusted to Him for that day. (Rom. 14:4)

He is able to do immeasurably more than all we ask or imagine. (Ephes. 3:20)

He is able to keep those who are being tempted. (Heb. 2:18)

He is able to keep you from falling. (Jude 24)

One of my favorite praise songs which used to be sung at the Promise Keepers assemblies is "He is Able." (I have changed the "He" to "You" as I praise You, O God . . .).

You are able, more than able
To accomplish what concerns me today.
You are able, more than able
To handle anything that comes my way.

You are able, more than able
To do much more than I could ever dream.
You are able, more than able
To make me what You want me to be.

And for that I thank You in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

GUESTS

Senator Taddiken rose on a Point of Personal Privilege to introduce his wife Debra, brother Dale and sister-in-law Judy Taddiken, who were visitors to the Senate.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 687, An act relating to veterans; concerning the burial of unclaimed remains of any veteran; amending K.S.A. 65-1732 and repealing the existing section, by Committee on Federal and State Affairs.

SB 688. An act concerning the issuance of certain bonds; relating to the national bio and agro defense facility; providing for the powers, duties and functions of the Kansas development finance authority, the Kansas bioscience authority and the department of administration, by Committee on Ways and Means.

SB 689. An act regulating traffic; concerning driving in the right lane; amending K.S.A. 8-1522 and repealing the existing section, by Committee on Ways and Means.

SB 690. An act concerning water; relating to the Republican river and the Arkansas river; disposition of moneys recovered from certain litigation; establishing the Republican river water conservation projects - Nebraska moneys fund and the Republican river water conservation projects - Colorado moneys fund; amending K.S.A. 82a-1801 and repealing the existing section, by Committee on Ways and Means.

SB 691. An act concerning sales taxation; relating to exemptions; downing concert series; amending K.S.A. 2007 Supp. 79-3606 and repealing the existing section, by Committee on Ways and Means.

SB 692. An act establishing the joint committee on energy and environmental policy, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1623—

By Committee on Assessment and Taxation

A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the classification of land devoted to recreational use.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 1 of article 11 of the constitution of the state of Kansas is hereby amended to read as follows:

§ 1. System of taxation; classification; exemption. (a) The provisions of this subsection shall govern the assessment and taxation of property on and after January 1, 1993, and each year thereafter. Except as otherwise hereinafter specifically provided, the legislature shall provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation. The legislature may provide for the classification and the taxation uniformly as to class of recreational vehicles, as defined by the legislature, or may exempt such class from property taxation and impose taxes upon another basis in lieu thereof. The provisions of this subsection shall not be applicable to the taxation of motor vehicles, except as otherwise hereinafter specifically provided, mineral products, money, mortgages, notes and other evidence of debt and grain. Property shall be classified into the following classes for the purpose of assessment and assessed at the percentage of value prescribed therefor:

- Class 1 shall consist of real property. Real property shall be further classified into seven subclasses. Such property shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:
- (1) Real property used for residential purposes including multi-family residential real property and real property necessary to accommodate a residential community of mobile or manufactured homes including the real property upon which such homes are located 11½%
 - (2) Land devoted to agricultural use which shall be valued upon the basis of its agricultural income or agricultural productivity pursuant to section 12 of article 11 of the constitution 30%
 - (3) Vacant lots 12%
 - (4) Real property which is owned and operated by a not-for-profit organization not subject to federal income taxation pursuant to section 501 of the federal internal revenue code, and land which is devoted to recreational use, and which real property or land is included in this subclass by law 12%

- (5) Public utility real property, except railroad real property which shall be assessed at the average rate that all other commercial and industrial property is assessed 33%
- (6) Real property used for commercial and industrial purposes and buildings and other improvements located upon land devoted to agricultural use 25%
- (7) All other urban and rural real property not otherwise specifically subclassified 30%

Class 2 shall consist of tangible personal property. Such tangible personal property shall be further classified into six subclasses, shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

- (1) Mobile homes used for residential purposes 11½%
- (2) Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% 30%
- (3) Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed 33%
- (4) All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 30%
- (5) Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding its economic life and as long as such property is being used, shall not be less than 20% of the retail cost when new of such property 25%
- (6) All other tangible personal property not otherwise specifically classified 30%
- (b) All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, farm machinery and equipment, merchants' and manufacturers' inventories, other than public utility inventories included in subclass (3) of class 2, livestock, and all household goods and personal effects not used for the production of income, shall be exempted from property taxation."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

“Explanatory statement. This amendment would reclassify land devoted to recreational use if so provided by law.

“A vote for this proposition would allow the enactment of law providing for the reclassification of land devoted to recreational use from subclass (7) to subclass (4) of class 1, thereby reducing the assessment rate to be applied for property tax purposes from 30% to 12%.

“A vote against this proposition would continue the application of the existing assessment rate of 30% to land devoted to recreational use for property tax purposes.

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election to be held on the first Tuesday following the first Monday in November, 2008.

SENATE CONCURRENT RESOLUTION No. 1624—

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

A CONCURRENT RESOLUTION pledging the Kansas legislature's support for the National Bio and Agro-Defense Facility and urging the President of the United States, and other members of the federal executive branch, to consider, seriously and positively, the proposed site in Manhattan, Kansas as the location for this new federal laboratory.

WHEREAS, Homeland Security Presidential Directive Nine (HSPD-9) has tasked the Secretary of the Department of Homeland Security to coordinate, "counter-measure research and development of new methods for detection, prevention technologies, agent characterization and dose response relationships for high-consequence agents"; and

WHEREAS, At present no facilities in the United States have adequate containment, security, equipment and infrastructure to meet the requirements identified in HSPD-9; and

WHEREAS, To meet this need, the Department of Homeland Security and its federal partners initiated plans for a National Bio and Agro-Defense Facility (NBAF); and

WHEREAS, The NBAF will enhance protection from both natural and intentional threats by providing and integrating high-biosecurity facilities, thus increasing our nation's capacity to assess potential threats to both human and animal life; and

WHEREAS, The Department of Homeland Security is seeking a location to build the \$451 million, 500,000 square foot, NBAF facility; and

WHEREAS, A site on the campus of Kansas State University is one of six sites actively under consideration by the Department of Homeland Security as possible locations for the NBAF facility; and

WHEREAS, The State of Kansas recognizes the NBAF as a critical national investment and pledges its support for the funding and construction of the NBAF in order to protect human and animal health from both naturally occurring and intentionally introduced disease threats; and

WHEREAS, Kansas is the ideal location for the NBAF. Kansas is a world leader in bioscience, particularly in the areas of animal health and vaccines, infectious diseases, and food safety. Kansas also has in place an exceptionally well qualified workforce; and

WHEREAS, In demonstration of their zealous support for locating the NBAF in Kansas, Governor Kathleen Sebelius and the Kansas Bioscience Authority have initiated a task force to lead Kansas' bid for the NBAF. This task force consists of prominent industry leaders, public officials - including the entire Kansas congressional delegation - representatives from the Kansas legislature, producer groups and leaders of prominent academic institutions; and

WHEREAS, The State of Kansas is committed to partnering with the federal government to support biosecurity. As part of this commitment, Kansas - along with the federal government - invested \$54 million in the nation's most modern biosecurity laboratory, the Biosecurity Research Institute at Kansas State University: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the Kansas legislature pledges its support for Kansas State University and the City of Manhattan, in their bid to have the U.S. Department of Homeland Security's National Bio and Agro-Defense Facility located in Kansas, and that the Legislature underscores its commitment to provide any and all support necessary to ensure the location of the NBAF in Kansas; and

Be it further resolved: That the Kansas Legislature purposefully encourages the U.S. Department of Homeland Security to consider Kansas' demonstrated expertise and experience with research, its existing facilities and security infrastructure, and the human resources already in place that make Kansas a natural fit for the location of this new federal laboratory; and

Be it further resolved: That copies of this resolution be provided to President Bush and Vice President Cheney, Secretary Chertoff of the U.S. Department of Homeland Security, Secretary Schafer of the U.S. Department of Agriculture, Secretary Leavitt of the U.S.

Department of Health and Human Services, the Kansas congressional delegation and Governor Kathleen Sebelius.

REFERRED TO COMMITTEE

President Morris referred **SB 688** to the Committee on **Ways and Means**.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Assessment and Taxation: **SB 686; Sub HB 2762; HB 2938.**

Education: **HB 2714.**

Federal and State Affairs: **SB 684, SB 685; HB 2873.**

Judiciary: **SCR 1622.**

Ways and Means: **HB 2858, HB 2893.**

CHANGE OF REFERENCE

The President withdrew **SB 525** from the Calendar under the heading of General Orders, and rereferred the bill to the Committee on **Commerce**.

MESSAGE FROM THE GOVERNOR

May 23, 2007

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate is an appointment made by me as the Governor of the State of Kansas, pursuant to law.

Kathleen Sebelius
Governor

Member, Kansas Corporation Commission, Thomas E. Wright pursuant to the authority vested in me by KSA 74-601, effective upon the date of confirmation by the Senate, to fulfill a term of four years.

July 13, 2007

To the Senate of the State of Kansas:

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

Kathleen Sebelius
Governor

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

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

Commissioner, Corporation Commission, Joseph F. Harkins, pursuant to the authority vested in me by KSA 74-601, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, Electric Transmission Authority Board of Directors, Earnest A. Lehman, pursuant to the authority vested in me by KSA 74-99d03, effective upon the date of confirmation by the Senate, to serve a term of four years.

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

Member, Kansas, Inc., Lawrence L. McCants, pursuant to the authority vested in me by KSA 74- 8001, effective upon the date of confirmation by the Senate, to fulfill a term of four years.

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

Member, State Board of Regents, Jarold W. Boettcher, pursuant to the authority vested in me by KSA 3202a, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, State Board of Regents, Richard Hedges, pursuant to the authority vested in me by KSA 3202a, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, State Board of Regents, Donna Shank, pursuant to the authority vested in me by KSA 3202a, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, State Board of Regents, Gary Sherrer, pursuant to the authority vested in me by KSA 3202a, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, State Board of Regents, William Thornton, pursuant to the authority vested in me by KSA 3202a, effective upon the date of confirmation by the Senate, to serve a term of four years.

October 16, 2007

To the Senate of the State of Kansas:

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

Kathleen Sebelius
Governor

Member, Kansas Board of Regents, Jill Docking, pursuant to the authority vested in me by KSA 74-3202a, effective upon the date of confirmation by the Senate, to serve a term of four years.

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

Member, Kansas Racing and Gaming Commission, Barry L. Schwan, pursuant to the authority vested in me by KSA 74-8803, effective upon the date of confirmation by the Senate, to serve a term of four years.

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

Member, Kansas Lottery Commission, Robert A. Wunsch, pursuant to the authority vested in me by KSA 74-8709, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, Kansas Lottery Commission, Joni Franklin Breitenbach, pursuant to the authority vested in me by KSA 74-8709, effective upon the date of confirmation by the Senate, to serve a term of four years.

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

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

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

Member, Kansas Racing and Gaming Commission, Carol Sader, pursuant to the authority vested in me by KSA 74-8803, effective upon the date of confirmation by the Senate, to serve a term of four years.

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

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

December 20, 2007

To the Senate of the State of Kansas:

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

Kathleen Sebelius
Governor

Member, Kansas Public Employees' Retirement System Board of Trustees, Tamla Edwards, pursuant to the authority vested in me by KSA 74-4905, effective upon the date of confirmation by the Senate, to serve a term of four years.

Kansas State Fire Marshal, Daniel P. McLaughlin, pursuant to the authority vested in me by KSA 75-1510, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

Commissioner, Central Interstate Low Level Radioactive Waste Commission, Dr. Ronald F. Hammerschmidt, pursuant to the authority vested in me by KSA 65-34a02, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

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

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

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

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

January 8, 2008

To the Senate of the State of Kansas:

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

Kathleen Sebelius
Governor

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

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

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

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

Member, Kansas Racing and Gaming Commission, Glenn Braun, pursuant to the authority vested in me by KSA 74-8803, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, Kansas Racing and Gaming Commission, William Falstad, pursuant to the authority vested in me by KSA 74-8803, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, Kansas Public Employees' Retirement System Board of Trustees, Douglas Wolff, pursuant to the authority vested in me by KSA 74-4905, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, Board of Tax Appeals, Bruce Larkin, pursuant to the authority vested in me by KSA 75-2433, effective upon the date of confirmation by the Senate to serve a term of four years.

Member, Board of Tax Appeals, Fred Kubik, pursuant to the authority vested in me by KSA 75-2433, effective upon the date of confirmation by the Senate to serve a term of four years.

COMMUNICATIONS FROM STATE OFFICERS

STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

December 13, 2007

Pursuant to KSA 46-2601, Paul J. Morrison, Attorney General, submitted the name of Robert Blecha for Senate confirmation as the director of the Kansas Bureau of Investigation.

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

MESSAGE FROM THE HOUSE

Announcing passage of **SB 389, as amended by House Substitute for SB 389; SB 410, SB 526. SB 614.**

The House concurs in Senate amendments to **Substitute HB 2757.**

The House concurs in Senate amendments to **HB 2847.**

The House accedes to the request of the Senate for a conference on **SB 435** and has appointed Representatives **O'Neal, Kinzer** and **Pauls** as conferees on the part of the House.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **SB 437** and requested a conference committee be appointed.

The President appointed Senators Schodorf, Vratil and Lee as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Taddiken, the Senate acceded to the request of the House for a conference on **HB 2660**.

The President appointed Senators Taddiken, Pine and Francisco as conferees on the part of the Senate.

Also, on motion of Senator McGinn, the Senate acceded to the request of the House for a conference on **HB 2692**.

The President appointed Senators McGinn, Ostmeyer and Francisco as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTION

Senators Morris and Hensley introduced the following Senate resolution, which was read: SENATE RESOLUTION No. 1830—

A RESOLUTION in memory of Wesley H. Sowers.

WHEREAS, Wesley H. Sowers was born August 26, 1905 in Whiting, Indiana; and

WHEREAS, Mr. Sowers earned both a bachelor's and master's degree in science from Purdue University, a law degree from DePaul, and completed Harvard University's Advanced Management Program; and

WHEREAS, In 1950, Mr. Sowers moved to Wichita as vice-president of Frontier Chemical and immediately adopted this city as his "own". Mr. Sowers quickly advanced at Frontier, becoming president in 1957. The company later became a division of Vulcan Materials Company and he continued as president of the division and also a member of the Board of Vulcan; and

WHEREAS, In 1965, Vulcan urged Mr. Sowers to relocate to its headquarters in Birmingham, Alabama, but he declined, declaring his allegiance to Wichita; and

WHEREAS, Mr. Sowers was a natural leader and active contributor, having an enormous impact on both the local community and the state of Kansas. Mr. Sowers held significant and numerous roles in Wichita business and civic circles in addition to governmental and educational arenas and made a positive impact in each; and

WHEREAS, Mr. Sowers served on the boards of The Coleman Company, Inc., The Fourth National Bank and Trust Company of Wichita and Great Lakes Chemical Corporation. Mr. Sowers also served for 10 years in the Kansas Senate from 1971 to 1980; and

WHEREAS, In 1990, Mr. Sowers received the "Uncommon Citizen" award from the Wichita Area Chamber of Commerce. Mr. Sowers was a gentleman in every sense of the word, living a life worthy of great respect by all who were privileged to know him; and

WHEREAS, Wesley H. Sowers died February 2, 2008, at the venerable age of 102, in Richardson, Texas; and

WHEREAS, Mr. Sowers was preceded in death by his wife, Gladys, and survived by his children, Penny Buxton and Wesley Sowers, Jr.; his grandchildren, Stefanie Dolese, Ashley Willis, Heather Dugan, Kevin Sowers and Kendall Sowers; and his 4 great-grandchildren: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor Wesley H. Sowers for his many accomplishments in industry and government, and for his considerable contributions and years of distinguished public service to his city and state, and we extend our deepest sympathy to his family and many friends; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Wesley H. Sowers, Jr., 1315 Chesterton Drive, Richardson, TX 75080, and Penny Buxton, 11600 Twisted Oak Road, Oklahoma City, OK 73120.

On emergency motion of Senator Donovan **SR 1830** was adopted unanimously.

Senators Barnett and Vratil, Allen, Apple, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson and Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1831—

A RESOLUTION urging the Congress of the United States to amend the No Child Left Behind Act so that states will be allowed to continue to work toward the goal of closing the achievement gap without overly prescriptive federal rules, unfunded mandates and the coercion of losing federal funds.

WHEREAS, The purpose of the No Child Left Behind Act (NCLB), which was enacted on a bipartisan basis and scheduled to be reauthorized in 2008, is to increase the academic achievement of all students in language arts, mathematics and science, and to close achievement gaps among various subgroups of students; and

WHEREAS, The NCLB sets expectations for all students to be 100% proficient by school year 2013-2014; however, the specific requirements are unreasonable for students with limited English proficiency and students with disabilities, making it impossible for all schools to comply with the law; and

WHEREAS, The NCLB requires highly qualified teachers in core academic areas, which conflicts with the process for certifying special education teachers and overlooks the fact that many categories of teachers, including special education teachers and middle school teachers in small rural schools, often teach several subjects; and

WHEREAS, The NCLB coerces participation by placing punitive financial consequences on states refusing to participate; and

WHEREAS, The NCLB is an under-funded mandate, with actual funding falling over \$70 billion short of the authorized levels, placing the burden on states and school districts to spend their own limited resources to implement the NCLB; and

WHEREAS, States should be allowed to use multiple measures of student achievement and school effectiveness in their state accountability plan, and to use a student-growth approach in their state accountability plan; and

WHEREAS, States should have the flexibility to allow school districts to design appropriate instructional interventions and incorporate differentiated interventions for any school not making adequate yearly progress so that a school that falls short in only a small number of federal criteria is not treated in the same manner as a school that falls short on all such measures, and to allow a district not making adequate yearly progress to be the supplemental educational services provider; and

WHEREAS, States should be given sufficient time for improvement plans to take effect before applying sanctions, and sanctions should not be applied if they undermine existing effective reform efforts, or states should be permitted to replace sanctions that do not have a consistent record of success with interventions that enable schools to make changes that result in improved student achievement; and

WHEREAS, States and school districts should have the flexibility to determine the appropriate standards upon which to base assessments for students with disabilities and to utilize the results from assessments based on such standards in calculating adequate yearly progress without arbitrary federal limitation on the use of such assessments; and

WHEREAS, States and school districts should have the flexibility to exclude assessment results of newly arrived limited-English proficient students in adequate yearly progress calculations for an appropriate number of years to ensure that such tests are measuring students' academic content knowledge and not just their English-proficiency levels; and

WHEREAS, Funding for supplemental educational services and school choice transportation should be funded by the federal government, and not come from diverting up to 20% of school districts' Title I funds for such purposes: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we memorialize the President and the United States Congress to make a serious commitment to improving the quality of the nation's public schools by substantially increasing funding for the reauthorized version of the No Child Left Behind Act; and

Be it further resolved: That we urge the Congress of the United States to amend the No Child Left Behind Act so that states will be allowed to continue working toward the goal of closing the achievement gap without overly prescriptive federal rules, under-funded mandates and the coercion of losing federal funds; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Kansas Congressional Delegation.

REPORT ON ENROLLED BILLS

SB 267, SB 412, SB 431, SB 432, SB 441 reported correctly enrolled, properly signed and presented to the Governor on March 17, 2008.

SCR 1621 reported correctly enrolled, properly signed and presented to the Secretary of State on March 17, 2008.

SR 1826, SR 1827 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 17, 2008.

SR 1828, SR 1829 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 18, 2008.

REPORTS OF STANDING COMMITTEES

Committee on Agriculture recommends **Senate Substitute for HB 2860**, as amended by Senate Committee of the Whole, be amended on page 1, in line 17, by striking all after “by”; in line 18, by striking “6102,” and inserting “public wholesale water supply district number 25 or by any public agency, as defined in K.S.A. 19-3546, and amendments thereto, that has entered into an agreement for the purpose of organizing public wholesale water supply district number 25 pursuant to K.S.A. 19-3547,”; also in line 18, by striking “the municipality” and inserting “such district or such public agency”;

Also on page 1, in the title, in line 12, by striking “municipalities” and inserting “public wholesale water supply district number 25”; and the substitute bill be passed as amended.

Committee on **Confirmation Oversight** begs leave to submit the following report:

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

By the Governor:

Central Interstate Low-Level Radioactive Waste Commission: K.S.A. 65-34a02

Ronald F. Hammerschmidt, Commissioner, serves at the pleasure of the Governor

Kansas Agricultural Remediation Board: K.S.A. 2007 Supp. 2-3709

Kamyar Nikoomanesh, term expires March 15, 2011

Timothy Peterson, term expires March 15, 2011

Kansas Electric Transmission Authority, Board of Directors: K.S.A. 2007 Supp. 74-99d03

Ernest Lehman, term expires March 15, 2011

Kansas Human Rights Commission: K.S.A. 44-1003

John Carmichael, term expires January 15, 2010

Lou Ann Thoms, term expires January 15, 2010

Kansas, Inc.: K.S.A. 2007 Supp. 74-8001

Lawrence McCants, term expires January 15, 2009

Donald Schnacke, term expires January 15, 2010

Stephen Waite, term expires January 15, 2010

Kansas Lottery Commission: K.S.A. 74-8709

Joni Franklin Breitenbach, term expires March 15, 2011

Robert A. Wunsch, term expires March 15, 2011

Kansas Public Employees Retirement System, Board of Trustees: K.S.A. 74-4905

Tamla Edwards, term expires January 15, 2011

Douglas Wolff, term expires January 15, 2011

Kansas Racing and Gaming Commission: K.S.A. 74-8803

Glenn R. Braun, term expires January 15, 2012

William Falstad, term expires January 15, 2012

Carol Sader, term expires January 15, 2011

Barry Schwan, term expires January 15, 2011

Kansas Technology Enterprise Corporation, Board of Directors: K.S.A. 2007 Supp. 74-8101

Bruce D. Dallman, term expires January 15, 2008

J. David McDonald, term expires January 15, 2011

Linda Reinhardt, term expires January 15, 2011
 State Banking Board: K.S.A. 74-3004
 Andrew Bias, term expires March 15, 2010
 James O'Sullivan, term expires March 15, 2010
 Larry K. Williams, term expires March 15, 2010
 State Board of Regents: Section 2 of Article 6 of Constitution of the State of Kansas and K.S.A. 74-3202a
 Jarold Boettcher, term expires June 30, 2011
 Jill Docking, term expires June 30, 2010
 Richard Hedges, term expires June 30, 2011
 Donna Shank, term expires June 30, 2010
 Gary Sherrer, term expires June 30, 2011
 William Thornton, term expires June 30, 2010
 State Board of Tax Appeals: K.S.A. 2007 Supp. 74-2433
 Fred Kubic, term expires January 15, 2012
 Bruce Larkin, term expires January 15, 2012
 State Civil Service Board: K.S.A. 75-2929a
 Patricia K. Pressman, term expires March 15, 2011
 Larry Wolgast, term expires March 15, 2009
 State Corporation Commission: K.S.A. 74-601
 Joseph Harkins, term expires March 15, 2011
 Thomas E. Wright, term expires March 15, 2010
 University of Kansas Hospital Authority, Board of Directors: K.S.A. 2007 Supp. 76-3304
 George J. Farha, term expires March 15, 2010
 David M. Kerr, term expires March 15, 2010
 Patricia A. Gaunce, term expires March 15, 2011
 Robert D. Regnier, term expires March 15, 2009
 Linda Warren, term expires March 15, 2010
 By the Attorney General:
 Crime Victims Compensation Board: K.S.A. 74-7303
 Nan Porter, term expires March 15, 2009
 By the President of the Senate:
 Kansas Bioscience Authority: K.S.A. 2007 Supp. 74-99b04
 Angela Marie Kreps, term expires March 15, 2011
 Bill Sanford, term expires March 15, 2011
 By the Speaker of the House of Representatives:
 Kansas Bioscience Authority: K.S.A. 2007 Supp. 74-99b04
 David Roy Franz, term expires March 15, 2011
 By the Minority Leader of the House of Representatives:
 Kansas Bioscience Authority: K.S.A. 2007 Supp. 74-99b04
 Dan Glickman, term expires March 15, 2010
 Kansas Health Policy Authority: K.S.A. 2007 Supp. 75-7401
 Susan Marie Page, term expires March 15, 2011
 By the Kansas Health Policy Authority:
 Kansas Health Policy Authority, Inspector General: K.S.A. 2007 Supp. 75-7427
 Robin Jeanine Kempf, term expires January 15, 2009
 Also, at the invitation of the chairperson of the committee, the following appointees appeared before and were considered by the committee. The committee recommends that the Senate consent to such appointments:
 By the Governor:
 State Fire Marshal: K.S.A. 75-1510
 Daniel P. McLaughlin, serves at the pleasure of the Governor
 By the Attorney General:
 Kansas Bureau of Investigation, Director: K.S.A. 2007 Supp. 75-711
 Robert Blecha, serves at the pleasure of the Attorney General.
 Committee on **Education** recommends **HB 2758**, as amended by House Committee, be passed.

Also, **HB 2734**, as amended by House Committee, be amended on page 1, in line 28, by striking “two” and inserting “four”;

On page 2, in line 4, by striking “two” and inserting “four”; by striking all in lines 13 through 43;

By striking all on pages 3 and 4;

On page 5, by striking all in lines 1 through 7; following line 7 by inserting:

“Sec. 2. K.S.A. 2007 Supp. 72-6407 is hereby amended to read as follows: 72-6407. (a)

(1) “Pupil” means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district.

(2) Except as otherwise provided in paragraph (3) of this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil’s attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil’s postsecondary education enrollment and attendance together with the pupil’s attendance in either of the grades 11 or 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil’s postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil’s vocational education enrollment and attendance together with the pupil’s attendance in any of grades nine through 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil’s vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending special education and related services, except special education and related services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as $\frac{1}{2}$ pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as $\frac{1}{2}$ pupil. A pupil in the custody of the secretary of social and rehabilitation services or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils.

(3) A pupil residing at the Flint Hills job corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution shall not be counted. A pupil enrolled in a virtual school in a district but who is not a resident of the state of Kansas shall not be counted.

(b) “Preschool-aged exceptional children” means exceptional children, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten.

(c) “At-risk pupils” means pupils who are eligible for free meals under the national school lunch act and who are enrolled in a district which maintains an approved at-risk pupil assistance plan.

(d) “Preschool-aged at-risk pupil” means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs.

(e) “Enrollment” means: (1) (A) Subject to the provisions of paragraph (1)(B), for districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this paragraph (1), the number of pupils regularly enrolled in the district on September 20; (B) a pupil who is a foreign exchange student shall not be counted unless such student is regularly enrolled in the district on September 20 and attending kindergarten or any of the grades one through 12 maintained by the district for at least one semester or two quarters or the equivalent thereof;

(2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or

(3) the number of pupils as determined under K.S.A. 72-6447 or K.S.A. 2007 Supp. 72-6448, and amendments thereto.

(f) “Adjusted enrollment” means enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, *high density at-risk weighting*, if any, *medium density at-risk weighting*, if any, nonproficient pupil weighting, if any, high enrollment weighting, if any, declining enrollment weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, cost of living weighting, if any, special education and related services weighting, and transportation weighting to enrollment.

(g) “At-risk pupil weighting” means an addend component assigned to enrollment of districts on the basis of enrollment of at-risk pupils.

(h) “Program weighting” means an addend component assigned to enrollment of districts on the basis of pupil attendance in educational programs which differ in cost from regular educational programs.

(i) “Low enrollment weighting” means an addend component assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having to which high enrollment weighting is assigned pursuant to K.S.A. 2007 Supp. 72-6442b, and amendments thereto.

(j) “School facilities weighting” means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities.

(k) “Transportation weighting” means an addend component assigned to enrollment of districts on the basis of costs attributable to the provision or furnishing of transportation.

(l) “Cost of living weighting” means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2007 Supp. 72-6449, and amendments thereto, apply on the basis of costs attributable to the cost of living in the district.

(m) “Ancillary school facilities weighting” means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 72-6441, and amendments thereto, apply on the basis of costs attributable to commencing operation of new school facilities. Ancillary school facilities weighting may be assigned to enrollment of a district only if the district has levied a tax under authority of K.S.A. 72-6441, and amendments thereto, and remitted the proceeds from such tax to the state treasurer. Ancillary school facilities weighting is in addition to assignment of school facilities weighting to enrollment of any district eligible for such weighting.

(n) “Juvenile detention facility” has the meaning ascribed thereto by 72-8187, and amendments thereto.

(o) “Special education and related services weighting” means an addend component assigned to enrollment of districts on the basis of costs attributable to provision of special education and related services for pupils determined to be exceptional children.

(p) “Virtual school” means any kindergarten or grades one through 12 course offered for credit that uses distance-learning technologies which predominantly use internet-based methods to deliver instruction and for which the course content is available on an “anytime, anyplace” basis, but the instruction occurs asynchronously with the teacher and pupil in separate locations, not necessarily located within a local education agency.

(q) “Declining enrollment weighting” means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2007 Supp. 72-6451, and amendments thereto, apply on the basis of reduced revenues attributable to the declining enrollment of the district.

(r) “High enrollment weighting” means an addend component assigned to enrollment of districts pursuant to K.S.A. 2007 Supp. 72-6442b, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts as a correlate to low enrollment weighting assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto.

(s) “High density at-risk pupil weighting” means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2007 Supp. 72-6455, and amendments thereto, apply.

(t) “Nonproficient pupil” means a pupil who is not eligible for free meals under the national school lunch act and who has scored less than proficient on the mathematics or reading state assessment during the preceding school year and who is enrolled in a district which maintains an approved proficiency assistance plan.

(u) “Nonproficient pupil weighting” means an addend component assigned to enrollment of districts on the basis of enrollment of nonproficient pupils pursuant to K.S.A. 2007 Supp. 72-6454, and amendments thereto.

(v) “Psychiatric residential treatment facility” has the meaning ascribed thereto by K.S.A. 72-8187, and amendments thereto.

(w) “*Medium density at-risk pupil weighting*” means an addend component assigned to enrollment of districts to which the provisions of section 4, and amendments thereto, apply.

Sec. 3. K.S.A. 2007 Supp. 72-6455 is hereby amended to read as follows: 72-6455. ~~The high density at-risk pupil weighting of each school district shall be determined by the state board as follows:~~

—(a) Except as provided by subsection (d), if the district has an enrollment of less than 40% at-risk pupils, the state board shall multiply the number of at-risk pupils by 0. The product is the high density at-risk pupil weighting of the district.

—(b) Except as provided by subsection (d), if the district has an enrollment of at least 40% but less than 50% at-risk pupils, the state board shall multiply the number of at-risk pupils by .04 in school year 2006-2007, by .05 in school year 2007-2008 and by .06 in school year 2008-2009 and each school year thereafter. The product is the high density at-risk pupil weighting of the district.

—(c) If the district has an enrollment of 50% or more at-risk pupils, the state board shall multiply the number of at-risk pupils by .08 in school year 2006-2007, by .09 in school year 2007-2008 and by .10 in school year 2008-2009 and each school year thereafter. The product is the high density at-risk pupil weighting of the district.

—(d) If the district has an enrollment of at least 35.1% at-risk pupils and an enrollment density of at least 212.1 pupils per square mile, the state board shall multiply the number of at-risk pupils by .08 in school year 2006-2007, by .09 in school year 2007-2008 and by .10 in school year 2008-2009 and each school year thereafter. The product is the high density at-risk pupil weighting of the district: (a) As used in this section, school district means any district having: (1) An enrollment of at least 50% at-risk pupils; or (2) an enrollment of at least 35.1% at-risk pupils and an enrollment density of at least 212.1 pupils per square mile.

(b) The high density at-risk pupil weighting of each school district shall be determined by the state board by multiplying the number of at-risk pupils by .10. The product is the high density at-risk pupil weighting of the district.

(c) If a school district becomes ineligible for high density at-risk pupil weighting because enrollment of at-risk pupils in the district falls below the requirements of subsection (a), the high density at-risk pupil weighting of the district shall be the greater of: (1) The high density at-risk pupil weighting in the current school year; (2) the high density at-risk pupil weighting in the prior school year; or (3) the average of the high density at-risk pupil weighting in the current school year and the preceding two school years.

New Sec. 4. (a) As used in this section, "school district" means any district having an enrollment of at least 40% but less than 50% at-risk pupils.

(b) The medium density at-risk pupil weighting of each school district shall be determined by the state board by multiplying the number of at-risk pupils by .06. The product is the medium density at-risk pupil weighting of the district.

(c) If a school district becomes ineligible for medium density at-risk pupil weighting because enrollment of at-risk pupils in the district falls below the requirement of subsection (a), the medium density at-risk pupil weighting of the district shall be the greater of: (1) The medium density at-risk pupil weighting in the current school year; (2) the medium density at-risk pupil weighting in the prior school year; or (3) the average of the medium density at-risk pupil weighting in the current school year and the preceding two school years.

Sec. 5. K.S.A. 2007 Supp. 72-6407, 72-6445a and 72-6455 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 10, by striking "relating" where it appears for the last time; in line 11, by striking "to consolidation;"; also in line 11, by striking "72-6445a" and inserting "72-6407, 72-6445a and 72-6455"; in line 12, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 675** be amended on page 1, in line 13, by striking all after "1."; in line 14, by striking all before "city" and inserting "A"; also in line 14, after "credit" by inserting "or debit"; in line 15, by striking "Any" and inserting "The"; in line 16, after "credit" by inserting "or debit"; also in line 16, by striking "and" and inserting ". The city"; in line 18, after the period by inserting "If the city imposes a fee for payments made by credit card, the city shall provide notice of such fee to the person making payment by credit card.

Any transaction involving payment by credit card pursuant to this section shall not be subject to the provisions of K.S.A. 16a-2-403, and amendments thereto.”; and the bill be passed as amended.

Also, **Substitute for HB 2562**, as amended by House Committee of the Whole, be amended on page 1, in line 42, before the period by inserting "or is a disabled veteran";

On page 2, following line 9 by inserting:

“(3) "Disabled veteran" means a person who has served on active duty in the armed forces, has been separated therefrom under honorable conditions, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the department of veterans affairs or a military department.”;

On page 3, in line 12, after "veteran" by inserting "; or a spouse who qualifies for the veteran's preference,"; in line 13, after "use" by inserting "a"; in line 14, before the period by inserting "or the DD214 form of the veteran under which the spouse qualifies for the preference";

On page 4, in line 1, by striking the semicolon; in line 11, by striking "2010" and inserting "2011"; in line 16, by striking "2010" and inserting "2011"; and the substitute bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2675, HB 2686**, both as amended by House Committee, be passed.

Also, **SB 535** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 535," as follows:

“Substitute for SENATE BILL No. 535

By Committee on Financial Institutions and Insurance

“AN ACT concerning credit unions; pertaining to field of membership; pertaining to mergers; pertaining to branches; amending K.S.A. 17-2205, 17-2206 and 17-2228 and repealing the existing sections.”;

and the substitute bill be passed.

Committee on **Judiciary** recommends **HB 2643** be amended on page 1, preceding line 27, by inserting the following:

“Sec. 2. K.S.A. 2007 Supp. 40-218 is hereby amended to read as follows: 40-218. Every insurance company, or fraternal benefit society, on applying for authority to transact business in this state, and as a condition precedent to obtaining such authority, shall file in the insurance department its written consent, irrevocable, that any action or garnishment proceeding may be commenced against such company or fraternal benefit society in the proper court of any county in this state in which the cause of action shall arise or in which the plaintiff may reside by the service of process on the commissioner of insurance of this state, and stipulating and agreeing that such service shall be taken and held in all courts to be as valid and binding as if due service had been made upon the president or chief officer of such corporation. Such consent shall be executed by the president and secretary of the company and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees or managers authorizing the president and secretary to execute the same. The summons *or order of garnishment*, accompanied by a fee of \$25, shall be directed to the commissioner of insurance, and shall require the defendant *or garnishee* to answer *or otherwise respond* by a certain day, not less than 40 days from ~~its date~~ *the date the summons or order of garnishment is served on the commissioner*.”

Service on the commissioner of insurance of any process, notice or demand against an insurance company or fraternal benefit society shall be made by delivering to and leaving with the commissioner or the commissioner’s designee, the original of the process and two copies of the process and the petition, notice of demand, or the clerk of the court may send the original process and two copies of both the process and petition, notice or demand directly to the commissioner by certified mail, return receipt requested. In the event that any process, notice or demand is served on the commissioner, the commissioner shall immediately cause a copy thereof to be forwarded by certified mail, return receipt requested to the insurance company or fraternal benefit society address to its general agent if such agent resides in this state or to the secretary of the insurance company or fraternal benefit society sued at its registered or principal office in any state in which it is domesticated. The commissioner of insurance shall make return of the summons to the court from whence it issued, showing the date of its receipt, the date of forwarding such copies, and the name and address of each person to whom a copy was forwarded. Such return shall be under the hand and seal of office, and shall have the same force and effect as a due and sufficient return made on process directed to a sheriff. The commissioner of insurance shall keep a suitable record in which shall be docketed every action commenced against an insurance company, the time when commenced, the date and manner of service; also the date of the judgment, its amount and costs, and the date of payment thereof, which shall be certified from time to time by the clerk of the court.”;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 27, by striking “is” and inserting “and K.S.A. 2007 Supp. 40-218 are”;

In the title, in line 10, following “60-736” by inserting “and K.S.A. 2007 Supp. 40-218”; also in line 10, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 485** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 485,” as follows:

“Substitute for SENATE BILL No. 485

By Committee on Ways and Means

“AN ACT concerning counties; enacting the county alternative project delivery building construction procurement act; amending K.S.A. 19-214 and repealing the existing section.”;

and the substitute bill be passed.

Also, **HB 2001**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2001," as follows:

"SENATE Substitute for HOUSE BILL No. 2001

By Committee on Ways and Means

"AN ACT concerning the issuance of certain bonds; relating to the national bio and agro defense facility; providing for the powers, duties and functions of the Kansas development finance authority, the Kansas bioscience authority and the department of administration.";

and the substitute bill be passed.

SB 670 be amended on page 1, in line 23, by striking "Members" and inserting "All members"; in line 24, by striking all following "for"; in line 25, by striking all preceding the period and inserting "terms of two years ending on the first day of the regular session of the legislature commencing in the first odd-numbered year after the year of appointment, except that the first members shall be appointed on July 1, 2008, and shall serve for terms ending on the first day of the regular session of the legislature commencing in 2009"; in line 26, by striking "Sep-"; in line 27, by striking all preceding "2008" and inserting "November 15,"

On page 2, in line 17, following "airports" and inserting ", trucks"; following line 21, by inserting the following:

"(h) The joint committee on the 2010 comprehensive transportation may introduce such legislation as deemed necessary in performing its function.";

And by relettering the remaining subsections accordingly;

Also on page 2, in line 25, by striking "2010" and inserting "2011"; and the bill be passed as amended.

MESSAGE FROM THE GOVERNOR

March 18, 2008

To the Senate of the State of Kansas:

Submitted herewith to the Senate by me as the Governor of the State of Kansas, pursuant to law.

Kathleen Sebelius
Governor

RE: Withdrawal of Appointment

Commissioner, Central Interstate Low Level Radioactive Waste Commission, Dr. Ronald F. Hammerschmidt. Pursuant to the authority vested in me by KSA 65-34a02, to be effective upon the date of his confirmation by the Senate: Ronald F. Hammerschmidt was nominated to succeed Joseph F. Harkins and was reported favorably on December 20, 2007 by the Senate Confirmation Oversight Committee.

I would like to respectively request that Dr. Hammerschmidt's name be removed from consideration for appointment to the Central Interstate Low Level Radioactive Waste Commission.

Thank you for your consideration of this request.

COMMITTEE OF THE WHOLE

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

On motion of Senator Wysong the following report was adopted:

Recommended **SB 647**; **HB 2695**, **HB 2702**, **HB 2708**, **HB 2735**, **HB 2781** be passed.

SB 638; **HB 2657** be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 409 be amended by adoption of the committee report recommending a **Sub for SB 409** and **Sub SB 409** be amended by motion of Senator Journey on page 2, in line 41, following the period by inserting “The court shall retain jurisdiction and may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits.”;

On page 3, in line 34, following the period by inserting “The court shall retain jurisdiction and may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits.”, and **Sub for SB 409** be passed as amended.

A motion by Senator Journey to further amend **Sub for SB 409** failed and the following amendment was rejected: on page 3, in line 34, following the period by inserting “The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 72 consecutive hours’ imprisonment.”

SB 4 be amended by adoption of the committee amendments and be amended by motion of Senator Journey, on page 6, in line 6, after “January 1, 2009” by inserting “, and its publication in the statute book”, and **SB 4** be passed as further amended.

SB 541 be amended by adoption of the committee amendments and be further amended by motion of Senator Wagle, on page 3, in line 29, by striking “this section” and inserting “subsection (b)(7)”; in line 34, by striking “provide” and inserting “sustain”; in line 35, by striking “this section” and inserting “subsection (b)(7)”.

SB 541 be further amended by motion of Senator Huelskamp, on page 3, in line 11, by striking “and” where it appears the second time; in line 15, by striking the period and inserting “; and

(9) shall include a provision that requires any individual to be a citizen or an alien lawfully admitted to the United States for purposes of establishing eligibility for benefits under the plan and to present satisfactory documentary evidence of citizenship or lawful admission of the individual. The criteria for determining whether the documentation is satisfactory shall be no more restrictive than the criteria used by the social security administration to determine citizenship. A document issued by a federally-recognized Indian tribe evidencing membership or enrollment in, or affiliation with, such tribe, such as a tribal enrollment card or certificate of degree of Indian blood shall be satisfactory documentary evidence of citizenship or lawful admission.”, and **SB 541** be passed as further amended.

A motion by Senator Barnett to further amend **SB 541** failed and the following amendment was rejected: on page 7, in line 20, by striking “and”; preceding line 40, by inserting “and

(F) a phased-in premium assistance plan to assist eligible low income Kansas residents with the purchase of private insurance or other benefits that are actuarially equivalent to the Kansas state employee health plan under a program authorized under subsection (a)(1). In program years one and two, subject to appropriation of funds and other eligibility requirements, eligible participants shall consist of families at and under 50% of the federal poverty level. Subject to appropriation of funds and other eligibility requirements, eligible participants in program year three shall consist of families at and under 75% of the federal poverty level. Subject to appropriation of funds and other eligibility requirements, eligible participants in program year four shall consist of families at and under 100% of the federal poverty level. *On July 1, 2011, subject to appropriation of funds and other eligibility requirements, eligible participants in the program shall also include childless adults age 19 and above at and under 100% of the federal poverty level. Prior to the expansion of this program to include childless adults age 19 and above as eligible participants, the Kansas health policy authority shall conduct an evaluation of the premium assistance program participation and cost effectiveness. The Kansas health policy authority shall make recommendations regarding proposed benefit design changes and present the findings to the joint committee on health policy oversight on or before November 1, 2010. The recommendations regarding benefit design changes shall include consideration of options available in the individual insurance market and available reinsurance options. In performing this evaluation, the Kansas health policy authority shall consult the insurance department as necessary.* The Kansas health policy authority is authorized to seek any approval from the centers for medicare and medicaid

services necessary to accomplish the development or expansion of premium assistance programs for families *and childless adults*;"

A motion by Senator Barnett to further amend **SB 541** failed and the following amendment was rejected: on page 7, in line 20, by striking "and"; preceding line 40, by inserting "and

(F) a phased-in premium assistance plan to assist eligible low income Kansas residents with the purchase of private insurance or other benefits that are actuarially equivalent to the Kansas state employee health plan under a program authorized under subsection (a)(1). In program years one and two, subject to appropriation of funds and other eligibility requirements, eligible participants shall consist of families at and under 50% of the federal poverty level. Subject to appropriation of funds and other eligibility requirements, eligible participants in program year three shall consist of families at and under 75% of the federal poverty level. Subject to appropriation of funds and other eligibility requirements, eligible participants in program year four shall consist of families at and under 100% of the federal poverty level. The Kansas health policy authority is authorized to seek any approval from the centers for medicare and medicaid services necessary to accomplish the development or expansion of premium assistance programs for families;"

A motion by Senator Kelly to further amend **SB 541** failed and the following amendment was rejected: on page 7, in line 20, by striking "and"; preceding line 40, by inserting "and

(F) a phased-in premium assistance plan to assist eligible low income Kansas residents with the purchase of private insurance or other benefits that are actuarially equivalent to the Kansas state employee health plan under a program authorized under subsection (a)(1). In program years one and two, subject to appropriation of funds and other eligibility requirements, eligible participants shall consist of families at and under 50% of the federal poverty level. Subject to appropriation of funds and other eligibility requirements, eligible participants in program year three shall consist of families at and under 75% of the federal poverty level. Subject to appropriation of funds and other eligibility requirements, eligible participants in program year four shall consist of families at and under 100% of the federal poverty level. The Kansas health policy authority is authorized to seek any approval from the centers for medicare and medicaid services necessary to accomplish the development or expansion of premium assistance programs for families;"

On page 8, preceding line 38, by inserting the following:
"Sec. 7.

KANSAS HEALTH POLICY AUTHORITY

(A) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2009, the following:

Premium assistance program \$4,000,000";

And by renumbering the remaining sections accordingly;

In the title, in line 13, following "SCHIP" by inserting, "premium assistance program"; in line 14, before "amending" by inserting "making and concerning appropriations for the fiscal year ending June 30, 2009, for the Kansas health policy authority;"

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

On roll call, the vote was: Yeas 10, Nays 27, Present and Passing 1, Absent or Not Voting 2.

Yeas: Allen, Barnett, Francisco, Goodwin, Haley, Hensley, Kelly, Lee, Petersen, Schodorf.

Nays: Apple, Barone, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Huelkamp, Jordan, Lynn, McGinn, Morris, Ostmeyer, Palmer, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson, Wysong.

Present and Passing: Journey.

Absent or Not Voting: Betts, Vratil.

A motion by Senator Hensley to further amend **SB 541** failed and the following amendment was rejected: on page 7, in line 20, by striking "and"; preceding line 40, by inserting "and

(F) a phased-in premium assistance plan to assist eligible low income Kansas residents with the purchase of private insurance or other benefits that are actuarially equivalent to the Kansas state employee health plan under a program authorized under subsection (a)(1). In program years one and two, subject to appropriation of funds and other eligibility require-

ments, eligible participants shall consist of families at and under 50% of the federal poverty level. The Kansas health policy authority is authorized to seek any approval from the centers for medicare and medicaid services necessary to accomplish the development or expansion of premium assistance programs for families.”;

On page 8, preceding line 38, by inserting the following:
“Sec. 7.

KANSAS HEALTH POLICY AUTHORITY

(A) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2009, the following:

Premium assistance program \$4,000,000”;

And by renumbering the remaining sections accordingly;

In the title, in line 13, following “SCHIP” by inserting, “premium assistance program”; in line 14, before “amending” by inserting “making and concerning appropriations for the fiscal year ending June 30, 2009, for the Kansas health policy authority.”

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

On roll call, the vote was: Yeas 10, Nays 27, Present and Passing 1, Absent or Not Voting 2.

Yeas: Allen, Barnett, Francisco, Goodwin, Haley, Hensley, Kelly, Lee, Petersen, Schodorf.

Nays: Apple, Barone, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Huelskamp, Jordan, Lynn, McGinn, Morris, Ostmeyer, Palmer, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson, Wysong.

Present and Passing: Journey.

Absent or Not Voting: Betts, Vratil.

SB 590 be amended by adoption of the committee amendments and be further amended by motion of Senator Journey, on page 3, in line 29, by striking “2008” and inserting “2011”, and **SB 590** be passed as further amended.

SB 597 be amended by adoption of the committee amendments and be further amended by motion of Senator Umbarger, on on page 1, in line 15, after “ing” by inserting “loan”, and **SB 597** be passed as further amended.

SB 629 be amended by adoption of the committee amendments and be further amended by motion of Senator Allen, on page 2, in line 24, before the period by inserting “registered with the federal office for human research protections”; by striking all in lines 25 through 29;

And by relettering subsections accordingly;

On page 3, in line 21, by striking “coverage for clinical trials” and inserting “the coverage required under subsection (b)”;

in line 22, by striking all after “Kansas”; by striking all in line 23; in line 24, by striking “physician”, and **SB 629** be passed as further amended.

HB 2641 be amended by adoption of the committee amendments and be further amended by motion of Senator Huelskamp, on page 32, in line 24, by striking “public”, and **HB 2641** be passed as further amended.

A motion by Senator Steineger to further amend **HB 2641** failed and the following amendment was rejected: on page 56, in line 42, by striking “and”;

On page 57, in line 4, before the period, by inserting the following:
“; and

(oooo) all sales of tangible personal property and services purchased by a contractor for the capital improvement project to construct, equip, furnish, renovate, reconstruct and repair the state capitol, which would be exempt from taxation if purchased directly by the state of Kansas. The state of Kansas shall furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same, bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the state, a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the sec-

retary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto”.

SB 679 be passed over and retain a place on the calendar.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, March 19, 2008.

HELEN MORELAND, CHARLENE BAILEY, PAT MATZEK, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

