

Journal of the Senate

FORTY-SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 19, 2008—2:30 p.m.

The Senate was called to order by President Stephen Morris.

The roll was called with thirty-nine senators present.

Senator Betts was excused.

President Morris introduced as guest chaplain, Pastor Philip Housley, East Side Baptist Church, Topeka, Kansas, who delivered the invocation:

Almighty God,

In this moment, we humbly recognize the authority You have over us as God of Creation. Thank You for the beating of our heart, for the breath we breathe, that we so often take for granted. Thank You for the gift of your Son, Jesus Christ, which makes Easter so incredible because He conquered the grave.

Thank You for the freedoms that we enjoy in this great country and for those that stand in harms-way for those freedoms. Please bless the families that sacrifice so that those without freedom may one day experience what we have been blessed with.

I pray for each individual in this place as they make decisions and discuss matters, help them to do so with patience and discernment. With each issue, may they seek your guidance as they consider the incredible weight of their actions.

With this prayer, I am careful to give You the thanks and the glory that you so worthily deserve.

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 693, An act concerning transportation; relating to intermodal transportation projects, and providing for the financing thereof, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Agriculture: **SB 690**.

Assessment and Taxation: **SB 691**; **SCR 1623**.

Committee of the Whole: **SCR 1624**; **SR 1831**.

Federal and State Affairs: **SB 687**.

Transportation: **SB 689**.

Utilities: **SB 692**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2935**.

Also, passage of **SB 419, SB 462, SB 467; SB 474, as amended; SB 475, SB 509, SB 514, SB 557.**

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2935 was thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Brungardt the Senate nonconcurred in the House amendments to **H Sub for SB 389** and requested a conference committee be appointed.

The Vice President appointed Senators Brungardt, Reitz and Gilstrap as a conference committee on the part of the Senate.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 89**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Further Amended by House Committee, as follows:

On page 2, in line 36, by striking all after "thereto"; by striking all in lines 37 through 39; in line 40, by striking all before the period; also in line 40, before "The" by inserting: "Whenever moneys are credited to the interstate water litigation fund pursuant to this subsection (a)(1), the director of accounts and reports shall transfer all such moneys from the interstate water litigation fund to the interstate water litigation reserve account of the state general fund until the balance in the interstate water litigation reserve account of the state general fund equals \$20,000,000.";

On page 3, in line 3, by striking all after "the" where it appears for the first time; by striking all in lines 4 and 5; in line 6, by striking all before the comma and inserting "balance in the interstate water litigation reserve account of the state general fund equals \$20,000,000";

On page 4, in line 10, by striking "the" and inserting "a";

In the title, in line 14, by striking all before the period and inserting "Republican river water conservation projects - Nebraska moneys fund and the Republican river water conservation projects - Colorado moneys fund";

And your committee on conference recommends the adoption of this report.

JOHN FABER
FORREST J. KNOX
JOSHUA SVATY
Conferees on part of House

MARK TADDIKEN
ROGER C. PINE
MARCI FRANCISCO
Conferees on part of Senate

Senator Taddiken moved the Senate adopt the Conference Committee Report on **Sub SB 89**.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The Conference Committee report was adopted.

FINAL ACTION ON CONSENT CALENDAR

SB 650; HB 2659, HB 2824 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

SB 650. An act concerning the department of social and rehabilitation services; relating to a land transfer from property adjacent to Kansas neurological institute to the Topeka association for retarded citizens, inc.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed.

HB 2659. An act designating a portion of United States highway 400 as the atomic veteran's memorial highway; amending K.S.A. 2007 Supp. 68-1022 and repealing the existing section.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed.

HB 2824. An act amending the railroad leasing act; concerning track leases; amending K.S.A. 2007 Supp. 66-532 and repealing the existing section.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 4. An act relating to drivers' licenses; concerning driver improvement clinics; providing for the disposition of certain moneys; amending K.S.A. 2007 Supp. 8-255 and 8-267 and repealing the existing sections, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed, as amended.

Sub SB 409. An act relating to crimes, punishment and criminal procedure; providing for substance abuse treatment for certain offenders; amending K.S.A. 21-4704, 21-4705, 21-4714 and 22-3716 and K.S.A. 2007 Supp. 8-1567, 75-5206, 75-5210 and 75-5220 and repealing the existing sections; also repealing K.S.A. 21-4704b and K.S.A. 2007 Supp. 8-1567b, was considered on final action.

On roll call, the vote was: Yeas 33, Nays 6, Present and Passing 0, Absent or Not Voting 1.

Yeas: Allen, Barnett, Barone, 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, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Apple, Brownlee, Bruce, Haley, Taddiken, Wagle.

Absent or Not Voting: Betts.

The bill passed, as amended.

SB 541, An act concerning the Kansas health policy authority; relating to powers and duties thereof regarding a medical home, expansion of SCHIP and small business wellness grant program; establishing the health reform fund; amending K.S.A. 2007 Supp. 38-2001, 75-7401 and 75-7408 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 30, Nays 8, Present and Passing 1, Absent or Not Voting 1.

Yeas: Allen, Apple, Barnett, Barone, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Jordan, Journey, Lynn, McGinn, Morris, Ostmeyer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson.

Nays: Francisco, Haley, Hensley, Huelskamp, Kelly, Lee, Palmer, Pyle.

Present and Passing: Wysong.

Absent or Not Voting: Betts.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: Now is the time for Kansas to move forward on health care reform. The Kansas Health Policy Authority's reform recommendations have set the stage for change.

Let's start with prevention and personal responsibility. Our greatest potential for improving health and saving health care dollars will come with prevention and healthy behaviors. Making sure Kansans have a medical home also makes sense.

The time has also come to provide needed care for the impoverished in our state. In our hearts, we know that is right. Expansion of SCHIP is a good idea. Premium assistance with state and federal dollars combined with employee and personal resources can also provide coverage to those in need.

Unless we are able to control costs, the American health care system will become unaffordable and unsustainable. Market-based solutions and consumer-directed health care should be part of our answers. However, the current market-based solution for the uninsured with a large medical bill is bankruptcy. That should not be acceptable in America.

We should dedicate ourselves to providing universal access to high quality, affordable health care to all citizens. **SB 541** takes one small step forward in that direction. I vote "aye" on **SB 541**. — JIM BARNETT

Senators Allen, Goodwin, Reitz, and Schodorf request the record to show they concur with the "Explanation of Vote" offered by Senator Barnett on **SB 541**.

MR. PRESIDENT: I vote "NO" on **SB 541**. Whatever you know, or that you think you know, about David Haley and whatever your opinion might be . . . after fourteen years in this Legislature, anyone who *really* knows me will tell you that I neither lie nor play *semantic* games.

As the ranking member of Senate Health Care Strategies Committee, it was a privilege for me to see **SB 11**, which passed the Senate with 36 affirmative votes, develop the concept of "premium assistance" to meet the challenge of increasing access to health care.

Health care is one of the most important issues to Kansas voters, according to polling. The Kansas Health Policy Authority (KHPA) including Dr. Marcia Nielson and her exceptional staff took the charge seriously and have diligently returned to the Legislature a set of twenty-one (21) recommendations. As amended by the Senate Health Care Strategies Committee, **SB 541**, guts these concepts and replaces them with the "hollow promise" of increasing SCHIP to 250% of federal poverty guidelines; when everyone in the Chamber knows that the Bush Administration has constantly vetoed *any* SCHIP expansion. **SB 541** has been stripped of providing needy Kansas health consumers with premium assistance.

Mr. President, voting for this bill (**SB 541**) and going "back home" and telling voters "I voted for health care expansion and access" is really a lie; a political, semantic election year, word game.

And, as you already know, Mr. President . . . I don't play those games. So, I vote "NO".
— DAVID HALEY

MR. PRESIDENT: I vote no on **Senate Bill 541**.

In her State of the State Address, Governor Sebelius challenged the legislature to transform our ailing health care system by providing Kansans affordable health insurance.

Sadly, we have failed to meet her challenge even for a few Kansans.

Premium Assistance would significantly improve health care by providing affordable, private coverage to needy Kansas families. In the next three years, 24,000 Kansans would have been helped — 8,500 next year alone. These families can't afford to take their sick child to a doctor, let alone afford private health coverage. They are the poorest of the poor and desperately need our help.

By eliminating Premium Assistance, we are turning our backs on them. Instead, this bill expands the federal State Children's Health Insurance Program, the funding for which was vetoed twice by President Bush.

There is little time left in this session to correct this colossal failure. If we want to reform health care in Kansas, we cannot rely on Congress. We must work together to create viable solutions to the many health care problems facing our people. They deserve much better than the meaningless provisions of this bill. — ANTHONY HENSLEY

Senators Kelly and Lee request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **SB 541**.

SB 590, An act relating to the Kansas criminal justice coordinating council; establishing the substance abuse policy board; amending K.S.A. 2007 Supp. 74-9501 and repealing the existing section, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed, as amended.

SB 597, An act creating the dentistry bridging loan program; establishing terms and conditions for loan agreements, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 1, Absent or Not Voting 1.

Yeas: Allen, Apple, Barnett, Barone, 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.

Present and Passing: Wysong.

Absent or Not Voting: Betts.

The bill passed, as amended.

SB 629, An act concerning insurance; relating to coverage for patient care services in a cancer clinical trial; amending K.S.A. 2007 Supp. 40-2,103 and 40-19c09 and repealing the existing sections, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "yes" on **SB 629**, which will assure Kansans their health plans will continue to pay for the costs of routine patient care services when they enroll in a cancer clinical trial offered in Kansas, if those same routine patient care services would otherwise be covered off a clinical trial. These "routine patient care services" are the usual costs of

medical care, such as doctor visits, hospital stays, clinical laboratory tests, x-rays and other routine services one would receive whether or not he/she was participating in a clinical trial.

The University of Kansas Cancer Center remains committed to obtaining the National Cancer Institute's (NCI) designation and with it, to bringing world class cancer research and treatment to all Kansans. **SB 629** helps move us closer to achieving this important goal.

Currently, twenty-three states require routine care coverage for patients who participate in a cancer clinical trial. Of those twenty-three states, 53% of NCI's designated Cancer Centers are located in those states. By passing **SB 629**, the State of Kansas sends a clear message to the NCI that it believes in the importance of removing barriers so that everyone across the state has the opportunity to participate in cutting-edge clinical trials that come with receiving this designation, and that obtaining NCI designation is important for the entire state. I vote "yes." — BARBARA P. ALLEN

Senators Barnett, Journey and Vratil request the record to show they concur with the "Explanation of Vote" offered by Senator Allen on **SB 629**.

MR. PRESIDENT: I vote yes on **SB 629** but must register my concerns. Information provided in committee indicated this bill could possibly provide an additional 50 patients into clinical trials at KUMC but would increase insurance premiums for many due to the new mandate. The potential to increase patients by the hundreds into clinical trials would be realized with more alliances between KUMC and cancer treating groups and hospitals throughout Kansas. This approach to accomplish the same objective would not increase anyone's health insurance premiums. — KARIN BROWNLEE

MR. PRESIDENT: While I am pleased to support the efforts of The University of Kansas to achieve National Cancer Institute designation, I am reluctant to support a health insurance mandate, since mandates tend to increase the cost of insurance premiums for Kansas employers, Kansas families, and our constituents. We have been assured by our colleagues that this bill, as drafted, does not increase insurance payment obligations. Should this bill return to this body in some other form, or if these assumptions prove to be incorrect, I will urge the Senate to revisit the question of whether or not the bill is necessary to achieve the highest quality of cancer care in Kansas at the most affordable cost to Kansas consumers. — SUSAN WAGLE

Senators Haley, Lynn and Teichman request the record to show they concur with the "Explanation of Vote" offered by Senator Wagle on **SB 629**.

SB 638, An act authorizing the state board of regents to convey certain real estate, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed, as amended.

SB 647, An act concerning cities and counties; relating to the transportation development district act; special assessments; amending K.S.A. 2007 Supp. 12-17,143, 12-17,145 and 12-17,148 and repealing the existing sections, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed.

HB 2641, An act concerning taxation; relating to income tax deductions, property taxes paid by certain taxpayers; sales taxation of certain cash rebates on sales or leases of new

motor vehicles; sales tax exemptions; amending K.S.A. 2007 Supp. 79-32,117, 79-3602 and 79-3606 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 0, Absent or Not Voting 1.

Yeas: Allen, Apple, Barnett, Barone, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, 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, Kelly.

Absent or Not Voting: Betts.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote NO on **HB 2641** because of the senate committee amendment that added a number of specific sales tax exemptions. I believe that it is time for the state to establish a fair and consistent method to identify the entities that are eligible for sales tax exemptions. — MARCI FRANCISCO

Senator Kelly requests the record to show she concurs with the "Explanation of Vote" offered by Senator Francisco on **HB 2641**.

HB 2657, An act concerning motorboats; relating to exhaust noise requirements; amending K.S.A. 2007 Supp. 32-1120 and repealing the existing section, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed, as amended.

HB 2695, An act concerning athletic trainer licensure; amending K.S.A. 2007 Supp. 65-6903, 65-6905, 65-6906, 65-6907, 65-6909 and 65-6910 and repealing the existing sections, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed.

HB 2702, An act concerning dentists and dentistry; relating to excepted acts and reciprocity; amending K.S.A. 65-1423 and 65-1434 and repealing the existing sections, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed.

HB 2708, An act designating K-53 highway as the patriot guard highway, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed.

HB 2735, An act concerning the state corporation commission; relating to transfers to the abandoned oil and gas well fund; amending K.S.A. 2007 Supp. 55-193 and repealing the existing section, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed.

HB 2781, An act concerning dental offices; permitting an additional office in counties with low population densities; amending K.S.A. 65-1435 and repealing the existing section, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, 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.

Absent or Not Voting: Betts.

The bill passed.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Committee on **Utilities** introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1832—

A RESOLUTION urging the State Corporation Commission to examine the appropriateness of locations and the quality of service provided by third party pay stations for utility payments and to open a docket, if appropriate.

WHEREAS, The Legislature of the State of Kansas recognizes that changes in utilities across the state and improvements in technology should result in improvement in service for consumers using third party pay stations for utility payments; and

WHEREAS, The Legislature of the State of Kansas recognizes the value of third party pay stations for utility payments to consumers who need to make last minute payments or to negotiate payment plans: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the State Corporation Commission is urged to review utility billing standards and practices and, if appropriate, to open a docket to examine the quality of service, appropriateness of locations and amount of sites for third party pay stations for utility payments; and

Be it further resolved: That the State Corporation Commission is requested to prepare a written report for the legislature on or before the first day of the 2009 regular session of the legislature containing recommendations to improve service of third party pay stations for utility payments; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to the State Corporation Commission.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HB 2520** be passed.

Also, **Substitute for HB 2018** be amended on page 3, in line 33, before “The”, by inserting the following:

“Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, no more than one shall be appointed from any one of the congressional districts of Kansas.”; and the substitute bill be passed as amended.

Committee on **Education** recommends **HB 2714** be passed.

Committee on **Elections and Local Government** recommends **HB 2804**, as amended by House Committee, be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Also, **HB 2683** be amended on page 1, following line 29, by inserting:

“New Sec. 2. Whenever any vacancy shall occur in the office of United States senator from this state, leaving an unexpired term, an election shall be held in accordance with this act. Not later than five days after any such vacancy occurs, the governor shall proclaim the date of such election in accordance with the provisions of this act.

New Sec. 3. Except as is otherwise provided in this act, the governor shall proclaim the date of any election held under this act to be a day not less than 45 days nor more than 60 days after such proclamation is issued. Such proclamation shall be made in writing, signed by the governor and delivered to the secretary of state. Thereupon the secretary of state shall promptly cause such proclamation to be published in the Kansas register, and a copy thereof shall be transmitted by the secretary to the chairperson of all state political parties authorized to hold statewide conventions under the provisions of section 4 and amendments thereto.

New Sec. 4. (a) In the event that any vacancy occurs to which this act applies, and such occurrence is not more than 90 days and not less than 30 days before any primary election of state officers, the election provided for in this act shall be held on the same date as the primary election of state officers.

(b) In the event that any vacancy occurs to which this act applies, and such occurrence is not more than 90 days and not less than 30 days before any regular primary or general election of city and school officers occurring in an odd-numbered year, the election provided for in this act shall be held within such 90 days and on the same date as such primary or general election.

New Sec. 5. Whenever a vacancy has occurred in the office of United States senator and is to be filled, a statewide convention of each political party whose candidate for governor received not less than 5% of the votes cast at the next preceding election of the governor shall be called by the state chairperson of the party, or if there is no state chairperson, by the party's candidate for governor at the next preceding general election. Such convention shall be called for a date not less than 25 days after the proclamation of election is issued by the governor in the cases to which section 3, and amendments thereto, does not apply, and within 15 days in cases to which subsection (a) or (b) of section 3, and amendments thereto, apply. In accordance with the rules of the statewide party and the provisions of this act, each such statewide convention shall nominate a candidate to fill the vacancy which has occurred and shall file a certificate of the nomination so made with the secretary of state immediately. Every such certificate shall be signed by the presiding officer and secretary of the convention making such nomination. Independent candidates may be nominated by petition of registered voters of the state equal in number to 4% of the number of qualified voters of the state. Any such petition shall be filed with the secretary of state not later than the time for state party convention certificates to be filed. No candidate shall be nominated to fill such vacancy by any means other than provided by this section.

New Sec. 6. The secretary of state shall furnish to each county election officer, the form for the ballot to be used at the election. The ballot shall contain the names of the candidates and their political parties or designations, and these shall appear upon the ballot in substantially the same form as is provided by K.S.A. 25-616, and amendments thereto, and the provisions of such statute shall apply to ballots used at such election to the extent that the same are consistent with the provisions of this act. The ballot shall indicate that the vote is for the unexpired term.

New Sec. 7. Elections held under the provisions of this act shall be conducted by county election officers. Laws relating to registration of voters shall apply to such election.

New Sec. 8. In all other cases to which this act applies, intermediate canvass of the election shall be made by the county boards of canvassers at 10 a.m. on the second day following

the election, unless such day is a Sunday or holiday, in which case such canvass shall be on the next following day which is not a Sunday or holiday. County election officers shall dispatch the abstract of the intermediate canvass to the secretary of state immediately upon completion of the canvass by the board of county canvassers. The state board of canvassers shall meet in the office of the secretary of state on the fourth day following the election, unless such day is a Sunday or holiday, in which case such canvass shall be on the next following day which is not a Sunday or holiday. The state board of canvassers shall make the final canvass, and the certificate of election of the candidate receiving the highest number of votes shall be issued in the same manner as is provided for regular elections of national officers.

New Sec. 9. Election laws of the state not inconsistent with the provisions of this act shall apply to elections held under this act.

New Sec. 10. Sections 2 through 10, and amendments thereto, shall be known and may be cited as the vacancy in the United States senate act for Kansas.

Sec. 11. K.S.A. 25-318 is hereby amended to read as follows: 25-318. When a vacancy shall occur in the office of United States senator from this state, ~~the governor shall make a temporary appointment to fill such vacancy until the next election of representatives in congress, at which time such vacancy shall be filled by election, and the senator so elected shall take office as soon thereafter as he shall receive his certificate of election there shall be an election to fill such vacancy. The election shall be held in accordance with the vacancy in the United States senate act for Kansas.~~;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 30, by striking “25-3501 is” and inserting “25-318 and 25-3501 are”;

Also on page 1, in the title, in line 10, after the semicolon by inserting “pertaining to vacancy in the position of United States senator;”; also in line 10, after “K.S.A.” by inserting “25-318 and”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 544** be amended on page 1, in line 23, by striking all after the comma; by striking all in line 24; in line 25, by striking “only leaf” and inserting “if the wrapper is in greater part made of any material except”; in line 26, before “sale” by inserting “vending machine operator.”;

On page 2, in line 7, by striking “(g)” and inserting “(h)”; in line 38, by striking “(b)” and inserting “(c)”;

On page 3, in line 6, by striking “(c)” and inserting “(d)”; in line 8, by striking “(a)” and inserting “(b)”; in line 12, by striking “(a)(3)” and inserting “(b)(3)”; in line 29, by striking “(d)” and inserting “(e)”; in line 37, by striking “(e)” and inserting “(f)”; in line 43, by striking “(a)(3)” and inserting “(b)(3)”;

On page 4, in line 1, by striking “(f)” and inserting “(g)”; in line 7, by striking “(g) The requirements of subsection (a) shall not prohibit” and inserting “(h) The requirements of subsection (a) shall not prohibit: (1) A wholesale dealer, retail dealer or vending machine operator from selling their existing inventory of cigarettes on or after July 1, 2009, if the wholesale dealer, retail dealer or vending machine operator can establish that state tax stamps were affixed to such cigarettes prior to July 1, 2009, and if the wholesale dealer, retail dealer or vending machine operator can establish that the inventory was purchased prior to July 1, 2009, in comparable quantity to the inventory purchased during the same period of time in the prior year. In no event may a wholesale dealer, retail dealer or vending machine operator sell or offer for sale a cigarette in this state that does not comply with this act after July 1, 2010; or (2)”;

Also on page 4, in line 14, by striking “(h)” and inserting “(i)”; in line 24, by striking “menthol.”; also in line 24, by striking “low tar, kings, 100s or”; in line 25, by striking “other” and inserting “or low tar”; by striking all in lines 37 through 43;

On page 5, by striking all in line 1; in line 2, by striking “(e)” and inserting “(d)”; also in line 2, by striking “retested and”; in line 4, by striking “April 15th” and inserting “July 31”; by striking all in lines 6 through 22 and inserting:

“(e) Every manufacturer shall certify cigarettes within the state before the manufacturer, retail dealer, wholesale dealer or vending machine operator legally may offer a manufac-

turer's cigarette for sale within the state. In order to obtain and maintain a listing on the directory created under subsection (i), a manufacturer shall consent to the jurisdiction of the Kansas courts for the purpose of enforcement of this act and shall appoint a registered agent for service of process in this state and shall identify the agent to the secretary of state.

(f) For each cigarette listed in a certification, a manufacturer shall pay to the state fire marshal a fee of \$250. The state fire marshal may adjust such fee annually, by rule and regulation, to ensure that such fee defrays the actual cost of processing, testing enforcement, administration and oversight activities required by law.”;

And by relettering the remaining subsections accordingly;

Also on page 5, in line 40, by striking all after the period; by striking all in lines 41 and 42 and inserting:

“Unless a wholesale dealer, retail dealer or vending machine operator has actual knowledge that cigarettes do not comply with this act, the wholesale dealer, retail dealer or vending machine operator shall consider any cigarette listed on the directory posted on the website to be lawful to sell in this state for the purpose of compliance with this act by such wholesale dealer, retail dealer or vending machine operator.”;

On page 6, in line 2, by striking all after “(a)”;

by striking all in lines 3 through 18; in line 19, by striking “(d)” and inserting “Cigarettes that are certified by a manufacturer in accordance with section 4, and amendments thereto, shall be marked with the letters “FSC”, which signifies fire standards compliant, appearing in eight-point type or larger and permanently printed, stamped, engraved or embossed on the package at or near the UPC code. A manufacturer certifying cigarettes in accordance with section 4, and amendments thereto, shall provide a copy of the certifications to any wholesale dealer and its agents to which the manufacturer sells cigarettes. Any wholesale dealer, agent, retail dealer or vending machine operator shall permit the state fire marshal, the director, the attorney general, and employees thereof, to inspect cigarette packaging marked in accordance with this section.

(b)”;

Also on page 6, in line 23, after “that” by inserting “do not meet the performance standard of section 3, and amendments thereto.”; in line 29, after “dealer” by inserting “or vending machine operator”; in line 34, after “dealer” by inserting “or vending machine operator”; in line 41, by striking all after the period; by striking all in lines 42 and 43;

On page 7, by striking all in lines 1 through 10; in line 21, by striking all after the period; by striking all in lines 22 and 23; in line 35, by striking all after “or” and inserting “for which a certification has not been filed”;

On page 8, in line 7, by striking “and retail dealers” and inserting “, retail dealers or vending machine operators”; in line 8, following “products” by inserting “act”; in line 9, by striking “act” and inserting a comma; in line 21, by striking “, sold”; in line 23, by striking “sold” and inserting “stored”;

On page 9, in line 19, by striking “The provisions of this” and inserting “The provisions of the fire safety and firefighter protection”; in line 20, by striking “this” and inserting “such”; and the bill be passed as amended.

Committee on **Judiciary** recommends **Substitute for HB 2545** be passed.

Also, **HB 2188**, as amended by House Committee, be amended on page 5, in line 8, preceding “The” by inserting a period; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2570**, as amended by House Committee, be passed.

Committee on **Transportation** recommends **Substitute for HB 2559** be amended by substituting a new bill to be designated as “SENATE Substitute for Substitute for HOUSE BILL No. 2559,” as follows:

“SENATE Substitute for Substitute for HOUSE BILL No. 2559

By Committee on Transportation

“AN ACT relating to motor vehicles; concerning driver's licenses; relating to certain age requirements; providing certain limitations; providing penalties; amending K.S.A. 8-235d, 8-239, 8-297 and 8-2,147 and K.S.A. 2007 Supp. 8-237, 8-240 and 72-89c02 and repealing the existing sections.”;

and the substitute bill be passed.

COMMITTEE OF THE WHOLE

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

On motion of Senator Taddiken the following report was adopted:

Recommended **HB 2686** be passed.

SB 670; Senate Sub for HB 2860 be amended by adoption of the committee amendments, and the bills be passed as amended.

Sub SB 485 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator McGinn, on page 8, following line 33, by inserting: “(3) The technical proposal may contain certain limited references to specific elements of the cost.”;

Also on page 8, in line 34, by striking “(3)” and inserting “(4)”, and **Sub SB 485** be passed as amended.

The committee report on **SB 535**, recommending a **Sub SB 535** be adopted, and the substitute bill be passed.

The committee report on **HB 2001** recommending a **Sub HB 2001** be adopted, and the substitute bill be passed.

SCR 1624 be adopted.

SR 1831 be adopted.

HB 2675 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 **Sub SB 485, Sub SB 535; SB 670; SCR 1624; SR 1831; S Sub for HB 2001; HB 2686; S Sub for HB 2860** were advanced to Final Action and roll call.

Sub SB 485, 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.

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

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

Absent or Not Voting: Betts, Jordan, Morris.

The bill passed, as amended.

Sub SB 535, 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.

On roll call, the vote was: Yeas 35, Nays 2, Present and Passing 0, Absent or Not Voting 3.

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

Nays: Journey, Petersen.

Absent or Not Voting: Betts, Jordan, Morris.

The bill passed.

SB 670, An act establishing the joint committee on the 2010 comprehensive transportation plan.

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

Yeas: Allen, Apple, Barnett, Barone, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Journey, Kelly, Lee, Lynn, McGinn,

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

Absent or Not Voting: Betts, Jordan, Morris.

The bill passed, as amended.

SCR 1624, 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.

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

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

Absent or Not Voting: Betts, Jordan, Morris.

The resolution was adopted.

SR 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.

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

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

Absent or Not Voting: Betts, Jordan, Morris.

The resolution was adopted.

S Sub for HB 2001, 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.

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

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

Absent or Not Voting: Betts, Jordan, Morris.

The bill passed.

HB 2686, An act concerning insurance; requiring market conduct studies for certain insurance companies; amending K.S.A. 2007 Supp. 40-222 and repealing the existing section.

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

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

Absent or Not Voting: Betts, Jordan, Morris.

The bill passed.

S Sub for HB 2860, An act concerning appropriation of water for beneficial use; relating to public wholesale water supply district number 25.

On roll call, the vote was: Yeas 33, Nays 3, Present and Passing 1, Absent or Not Voting 3.

Yeas: Allen, Apple, Barnett, Barone, Brownlee, Bruce, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Kelly, Lee, Lynn, McGinn, Ostmeyer, Palmer,

Petersen, Pine, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson, Wysong.

Nays: Brungardt, Journey, Vratil.

Present and Passing: Reitz.

Absent or Not Voting: Betts, Jordan, Morris.

The bill passed, as amended.

MESSAGE FROM THE HOUSE

Announcing the House accedes to the request of the Senate for a conference on **SB 437** and has appointed Representatives Aurand, Horst and Storm as conferees on the part of the House.

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, March 21, 2008.

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

PAT SAVILLE, *Secretary of the Senate.*

