

Corrected

Journal of the Senate

FIFTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, March 28, 2008—9:00 a.m.

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

Heavenly Father,

I have been asked to pray for rain to fall on western Kansas. There is an old hymn whose second stanza goes like this:

“There shall be showers of blessing;”
Precious reviving again;
Over the hills and the valleys,
Sound of abundance of rain.”

Although this old hymn primarily refers to showers of spiritual blessing, I believe, O God, that You have answered prayers for rain in the past, and that You bless those who acknowledge that You still do.

So we pray that the western part of our state
Will hear the sound of abundance of rain,
Which will bless all those who depend
On the growing of crops of grain.

There are also other kinds of crops
That benefit all of mankind
Which depend on the moisture to grow
Along with the blessed sunshine.

I thank You in advance how You answer
Our appeal for the falling of rain.
For when we pray that Your will be done,
Our praying will not be in vain.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Judiciary: **HB 2818**.

Ways and Means: **HB 2744, HB 2920, HB 2926**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Donovan moved the Senate concur in house amendments to **SB 522**.

SB 522, An act concerning motor vehicles; relating to registration of certain vehicles; amending K.S.A. 2007 Supp. 8-1,152 and repealing the existing section.

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

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

Senator Taddiken moved the Senate concur in house amendments to **SB 558**.

SB 558, An act concerning irrigation districts; pertaining to the conduct of elections; amending K.S.A. 42-706 and repealing the existing section.

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

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

Senator Taddiken moved the Senate concur in house amendments to **SB 584**.

SB 584, An act concerning the Kansas department of agriculture; transferring certain powers and duties of the secretary of the department of health and environment to the secretary of agriculture; food service establishments, licensure; amending K.S.A. 36-501, 36-502, 36-504, 36-506, 36-507 and 36-510 and K.S.A. 2007 Supp. 36-503, 36-503, as amended by section 10 of 2008 Senate Bill No. 584, 36-515b and 74-592 and repealing the existing sections.

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

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

FINAL ACTION ON CONSENT CALENDAR

HB 2681 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

HB 2681, An act repealing K.S.A. 48-1604; concerning studies of law and regulations to promote nuclear industrial development.

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

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

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 652, An act making and concerning appropriations for the fiscal years ending June 30, 2009, and June 30, 2010, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Huelskamp, Journey, Lynn, Pyle, Steineger, Wilson.

The bill passed, as amended.

SB 655, An act making and concerning appropriations for the fiscal years ending June 30, 2008, June 30, 2009, June 30, 2010, and June 30, 2011, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, was considered on final action.

On roll call, the vote was: Yeas 33, Nays 7, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Huelskamp, Journey, Lee, Lynn, Pyle, Steineger, Wilson.

The bill passed, as amended.

SB 656, An act concerning long-term care services; relating to home and community based services, was considered on final action.

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

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

The bill passed, as amended.

SB 658, An act making and concerning appropriations for the fiscal years ending June 30, 2008, June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, and June 30, 2015, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2007 Supp. 2-223, 55-193, 75-6702, 79-2964, 79-3425i and 79-4801 and repealing the existing sections, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Betts, Brownlee, Brungardt, Donovan, Emler, Francisco, Goodwin, Hensley, Jordan, Kelly, Lee, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil.

Nays: Barone, Bruce, Gilstrap, Haley, Huelskamp, Journey, Lynn, Ostmeyer, Palmer, Petersen, Pyle, Steineger, Taddiken, Wagle, Wilson, Wysong.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I must vote no on **SB 658**, the main budget bill for Fiscal year 2009. This bill funds many items that I support and some that I do not, but Mr. President, the bill according to our experts in Legislative Research, spends \$310 million more than we are projected to receive. In addition, significant important items were delayed until the Omnibus session.

We also spent \$425 million more in FY 2008 than we received, we simply cannot sustain the great State of Kansas with deficit spending such as this. I must reluctantly vote no on **SB 658**. — J. BARONE

Senators Huelskamp, Journey, Lynn, Ostmeyer, Palmer, Petersen, Pyle and Taddiken request the record to show they concur with the "Explanation of Vote " offered by Senator Barone on **SB 658**.

Sub SB 662. An act concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; the Kansas public employees act of 2009; retirement plan compliance with federal law; withdrawal of contributions; service credit between systems; state taxation of certain retirement benefits; amending K.S.A. 12-5005, 13-14a02, 13-14a10, 13-14a13, 14-10a02, 14-10a13, 20-2601, 20-2623, 72-5501, 74-4912, 74-4919b, 74-4924, 74-4988, 74-4998c, 74-49,105, 74-49,122, 74-49,123 and 74-49,124 and K.S.A. 2007 Supp. 74-4902, 74-49,202, 74-49,203, 74-49,207, 74-49,208 and 79-32,117 and repealing the existing sections; also repealing K.S.A. 74-4917a, was considered on final action.

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

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

The substitute bill passed, as amended.

SB 673. An act making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, and June 30, 2015, for the state board of regents; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 5, Present and Passing 1, Absent or Not Voting 0.

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

Nays: Huelskamp, Journey, Pyle, Steineger, Wilson.

Present and Passing: Brownlee.

The bill passed, as amended.

SB 677. An act relating to drivers' licenses and other state issued identification cards; concerning the photo fee fund; amending K.S.A. 2007 Supp. 8-243, 8-299 and 8-1324 and repealing the existing sections, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Goodwin, Jordan, Kelly, Lee, Lynn, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Barone, Betts, Gilstrap, Haley, Hensley, Huelskamp, Ostmeyer, Palmer, Petersen, Pyle, Steineger, Taddiken, Wilson.

Present and Passing: Journey.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: Kansas has made significant progress in the area of identity theft and the security of our drivers licenses. **Senate Bill 677** adds one more important step to insure that Kansas driver licenses and identification cards cannot be obtained fraudulently or illegally. This adds one more tool for our state to protect the security of our citizens and prove the lawful presence of anyone obtaining a Kansas drivers license. I vote aye on **SB 677**. — JIM BARNETT

Senators Allen, Apple, Francisco, Kelly, Lynn, Pine, Schodorf, Teichman, Umbarger and Vratil request the record to show they concur with the "Explanation of Vote " offered by Senator Barnett on **SB 677**.

MR. PRESIDENT: I vote "NO", again, on **SB 677**. Just *yesterday* (as reflected on page 1633; the March 27, 2008 edition of the Journal of the Senate), 24 senators responsibly voted to kill this money-drawing vampire but today has new life.

As a fiscal conservative, it chagrins me to see leadership cave in and hypocrisy, from yesterday to today, allow the creation of this yet undetermined (or, at least, yet unidentified) new slush fund.

How sad, so very sad, that we reverse ourselves today; that the Senate says it's all right to fleece "only" \$3 million a year from our fellow Kansans who need a state-issued photo I.D. . . . instead of fleecing them for the \$6 million yesterday's 677 attempted.

Under the guise of stronger homeland security, this fake "real I.D." is actually only a "real rip-off" of all of our constituents who need a state-issued photo I.D. and/or driver's license.

Mr. President, what manipulative power could flip so many so quickly for no *real* reason? You might know, but I obviously do not. That's why I still vote "NO" on **SB 677**. — DAVID HALEY

SR 1836, A resolution requesting the Secretary of Revenue to seek a declaratory judgment from a court of competent jurisdiction as to whether the Tax Reform and Relief Act of 1999 and K.S.A. 79-5040 suspended procedural limitation requirements such as election requirements when the Legislature suspended levy limitations for special taxing districts across the State of Kansas, was considered on final action.

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

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

Nays: Huelskamp, Ostmeyer, Pyle.

The resolution was adopted.

HB 2307, An act concerning counties; amending K.S.A. 19-202 and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

HB 2617, An act concerning motor vehicles; relating to driving under the influence of alcohol or drugs; providing substance abuse treatment for certain offenders; amending K.S.A. 21- 4704 and 22-3437 and K.S.A. 2007 Supp. 8-1001, 8-1567, 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 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The bill passed, as amended.

HB 2727, An act concerning sexual assault; relating to evidence; amending K.S.A. 65-448 and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

HB 2746, An act concerning real estate brokers and salespersons; relating to licensure, prohibited acts, advertising and definitions; amending K.S.A. 58-3067, 58-3068 and 74-4202 and K.S.A. 2007 Supp. 58-3035, 58-3043, 58-3047, 58-3050 and 58-3062 and repealing the existing sections, was considered on final action.

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

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

The bill passed, as amended.

HB 2772, An act concerning real estate imposing conditions relating to the appraisal and sales thereof; amending K.S.A. 48-1625, 58-4102, 58-4103, 58-4117 and 58-4118 and repealing the existing sections, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, 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, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Bruce, Haley, Steineger.

The bill passed, as amended.

HB 2783, An act relating to insurance; concerning voluntary noncontractual mutual aid arrangements; relating to coverage for patient care services in a cancer clinical trial; amending K.S.A. 40-202 and 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 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The bill passed, as amended.

HB 2825, An act concerning civil procedure; relating to court records and proceedings, was considered on final action.

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

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

The bill passed.

HB 2845, An act concerning crimes, punishment and criminal procedure; relating to aiding escape; amending K.S.A. 21-3811 and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

HB 2858, An act concerning state educational institutions; authorizing the state board of regents to convey certain real estate; relating to Fort Hays state university foundation; amending K.S.A. 2007 Supp. 76-156a and 76-756 and repealing the existing sections, was considered on final action.

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

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

The bill passed, as amended.

HB 2908, An act concerning alcoholic beverages; relating to the regulation thereof; amending K.S.A. 21-3610, 41-102, 41-346 and 41-2615 and K.S.A. 2007 Supp. 41-303, 41-308a, 41-308b, 41-311, 41-719, 41-2645, 41-2905 and 41-2906 and repealing the existing sections, was considered on final action.

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

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

Nays: Journey, Pyle, Schmidt D.

The bill passed, as amended.

S Sub for HB 2916, An act concerning state officers and employees; relating to appointments, benefits, expenses, salaries and compensation; making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, and June 30, 2013; amending K.S.A. 40-102, 46-137a and 46-137b and K.S.A. 2007 Supp. 75-3101, 75-3103, 75-3104, 75-3108, 75-3110 and 75-3111a, 75-5603 and repealing the existing sections, was considered on final action.

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

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

Nays: Journey.

The substitute bill passed, as amended.

S Sub for HB 2923, An act concerning veterans; relating to assistance therefor; making and concerning appropriations for the fiscal year ending June 30, 2009, for state agencies; amending K.S.A. 2007 Supp. 8-1,146 and 74-8724 and repealing the existing sections, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, 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.

Nays: Brungardt, Wysong.

The substitute bill passed.

REPORT ON ENGROSSED BILLS

Sub SB 458, SB 676 reported correctly engrossed March 28, 2008.

REPORTS OF STANDING COMMITTEES

Committee on Transportation begs leave to submit the following report:

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

By the Governor:

Kansas Highway Patrol, Superintendent: K.S.A. 74-2113

Colonel Terry Lee Maple, serves at the pleasure of the Governor

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Hensley and Morris introduced the following Senate resolution, which was read:
SENATE RESOLUTION No. 1844—

A RESOLUTION in memory of Leroy Hayden.

WHEREAS, Leroy Hayden, formerly of Satanta and a 16 year veteran of the Kansas senate, died February 22, 2008, at age 80; and

WHEREAS, Mr. Hayden was born July 31, 1927, in Satanta, Kansas, where he was a lifetime resident. Mr. Hayden served in the United States Navy during World War II. He was a member of the Satanta American Legion Post No. 276, and a life member of the Veterans of Foreign Wars; and

WHEREAS, During his lifetime, Mr. Hayden was very active in his local community. He attended the First Baptist Church of Satanta, and was a past member of the Satanta Chamber of Commerce. Mr. Hayden also served as a council member for the Bureau of Health Planning, and as the secretary and treasurer of Satanta Development, Inc. He also belonged to the Elks Club in Liberal, Kansas. In 2007, he received the Senior Citizen of the Year Award as a result of his lifelong service to Kansas; and

WHEREAS, Part of Mr. Hayden's service to the state of Kansas included serving in the Kansas Senate. While serving as a senator, Mr. Hayden was appointed to the Emergency Medical Services Board. His committee assignments included service on the committees on assessment and taxation, elections, federal and state affairs, public health and welfare, transportation and utilities, energy and natural resources and ways and means. Mr. Hayden was also appointed to the Kansas Racing Commission by former Governor William Graves; and

WHEREAS, Mr. Leroy Hayden and Ms. Mavis Gray Barker were married April 18, 1958; she survives. Also surviving are four sons, Steve and Gary Barker and Michael and Shawn Hayden; two daughters, Marsha Flummerfelt and Robyn Young, as well as 13 grandchildren, 11 great-grandchildren, and two great-great-grandchildren: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we extend our deepest sympathy to the family of Leroy Hayden and declare our appreciation for the 16 years of devoted service he gave to the state of Kansas and for his lifelong service to his local community; and

Be it further resolved: That the Secretary of the Senate be directed to provide two enrolled copies of this resolution to Mrs. Mavis Hayden at 805 Ponca Ave., Satanta, KS 67870.

On emergency motion of Senator Hensley **SR 1844** was adopted unanimously.

Members of Senator Hayden's family were guests and were recognized with a standing ovation. Senator Hensley presented the family a framed copy of the resolution.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Barnett and Reitz introduced the following Senate resolution, which was read:
SENATE RESOLUTION No. 1845—

A RESOLUTION observing the month of March as National Colon Cancer Awareness Month and recognizing the need for all adult Kansans age 50 and older to undergo preventive colorectal cancer screening to detect colon cancer early when it is most curable.

WHEREAS, Colon cancer is the second leading cause of cancer-related death in the United States with at least 500 Kansans expected to die of colon cancer this year; and

WHEREAS, If detected early, the colon cancer survival rate is greater than 90% as compared to the survival rate of only 10% for those whose colon cancer is detected in its advanced stages; and

WHEREAS, Most deaths are preventable when precancerous growths can be detected through preventive screenings and be removed without invasive surgery before they become cancerous; and

WHEREAS, Greater public awareness of the need to begin preventive screening at age 50 at intervals suggested by the American Cancer Society will lead to early detection that saves lives; and

WHEREAS, Many insurance companies are to be commended for providing coverage for this important preventive colorectal screening; and

WHEREAS, Other insurance companies are encouraged to also provide this important preventive screening coverage to further increase the use of screening and the survival rate: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we proudly join with others in observing the month of March as National Colon Cancer Awareness Month and urge all adult Kansans age 50 and older to undergo preventive colorectal cancer screening to detect colon cancer early when it is most curable.

On emergency motion of Senator Barnett **SR 1845** was adopted unanimously.

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 Bruce in the Chair.

Upon unanimous consent Senator D. Schmidt moved **HB 2897** to the top of the calendar under the heading of General Orders.

Recommended **SB 637**, **SB 696** be passed.

SB 591, **SB 689**; **HB 2343**, **HB 2721** be amended by adoption of the committee amendments, and the bills be passed as amended.

HB 2897, as amended by adoption of the committee report on Thursday, March 27, was further amended by Senator Huelskamp. On Friday, March 28, Senator Huelskamp withdrew his amendment, and **HB 2897** was passed as amended.

HB 2689 be amended by motion of Senator Teichman, on page 2, after line 25, by inserting the following:

“New Sec. 2. Notwithstanding the requirements of K.S.A. 40-952 and 40-955, and amendments thereto, a filing made by an insurer for personal insurance under this section that provides for an overall statewide rate increase or decrease of no more than 12% in the aggregate for all coverages that are subject to the filing may take effect the date it is filed. The 12% limitation shall not apply on an individual insured basis. No more than one rate filing may be made by an insurer pursuant to the expedited process provided in this section during any period of 12 consecutive months, unless the combination of such rate filing and all other rate filings made by such insurer within the preceding period of 12 consecutive months does not result in an overall statewide increase or decrease of more than 12% in the aggregate for all coverages that are subject to such filing.

New Sec. 3. Any rate filing which falls outside the limitations specified in section 2, and amendments thereto, shall be subject to K.S.A. 40-952 and 40-955, and amendments thereto, unless such filing is otherwise exempt pursuant to another provision of Chapter 40 of the Kansas Statutes Annotated and acts amendatory thereof and supplemental thereto.

New Sec. 4. (a) Any filing submitted pursuant to section 2, and amendments thereto, shall be deemed to comply with state law unless the commissioner determines that the filing is inadequate or unfairly discriminatory. If the commissioner determines that the filing is inadequate or unfairly discriminatory, the commissioner shall issue a written order specifying in detail:

- (1) Each provision of Chapter 40 of the Kansas Statutes Annotated, and acts amendatory thereof and supplemental thereto, the insurer has violated;
- (2) the reasons the filing is inadequate or unfairly discriminatory; and
- (3) stating a reasonable future date on which the filing shall be considered no longer effective.

(b) If the commissioner issues an order pursuant to this section more than 30 days after the date on which the commissioner received the rate filing, the effect of such order shall be prospective only and shall not affect any contract issued or made before the effective date of such order.

New Sec. 5. Within the limitation specified in section 2, and amendments thereto, no rate increase may be implemented with regard to an individual existing policy, unless such increase is applied at the time of a renewal or conditional renewal of an existing policy and

the insurer mails or delivers to the named insured, at the address shown in the policy, a written notice that clearly and conspicuously discloses its intention to change the rate, at least 30 days in advance of the end of the insured's policy period. A notice of renewal or conditional renewal that clearly and conspicuously discloses the renewal premium applicable to the policy shall be deemed to comply with this section.

New Sec. 6. For purposes of sections 2 through 7:

(a) "Commissioner" means the commissioner of insurance.

(b) "Personal insurance" shall have the meaning ascribed to it in K.S.A. 2007 Supp. 40-5103 (l) and amendments thereto.

(c) "Unfairly discriminatory" shall have the meaning ascribed to it in K.S.A. 40-953 and amendments thereto. The term "unfairly discriminatory" includes a rate for a risk that is classified in whole or in part on the basis of race, color, creed or national origin.

New Sec. 7. Sections 2 through 7, and amendments thereto, shall be known and may be cited as the property/casualty flex-rating regulatory improvement act.":

And by renumbering the remaining sections accordingly;

In the title, in line 9, before "pertaining" by inserting "establishing the property/casualty flex-rating regulatory improvement act; pertaining to personal lines insurance written on risks in this state by any insurer authorized to do business in this state;"; and **HB 2689** be passed as amended.

Sub HB 2207 be amended by adoption of the committee amendments, and be further amended by motion of Senator Brungardt, on page 7, following line 37, by inserting the following:

"Sec. 3. K.S.A. 65-4967 is hereby amended to read as follows: 65-4967. (a) For purposes of this section a person dispensing contact lenses means a person or entity not licensed under K.S.A. 65-1505, and amendments thereto, or licensed to practice medicine and surgery in Kansas who mails contact lenses to patients in Kansas pursuant to a contact lens prescription which such person or entity did not determine.

(b) No person dispensing contact lenses as defined under subsection (a) may dispense contact lenses through the mail to Kansas residents unless such person meets the criteria of this section, is registered under this section and pays the annual registration fee set by the state board of healing arts. Registration fees shall not exceed the annual fee for an initial or renewal permit to practice optometry in this state as provided in K.S.A. 65-1505 and amendments thereto.

(c) Approval of the registration for dispensing contact lenses shall be provided by the state board of healing arts upon certification by the person dispensing the contact lenses that such person:

(1) Is licensed or registered to dispense contact lenses in the state where the dispensing facility is located, if required to be licensed or registered in such state;

(2) provides the location, names and titles of all principal corporate officers and of the individual who is responsible for overseeing the dispensing of contact lenses in Kansas;

(3) complies with directions and appropriate requests for information from the regulating agency of each state where such person is licensed or registered;

(4) will respond directly and within a reasonable period of time, not to exceed 15 days, to all communications from the state board of healing arts concerning the dispensing of contact lenses in Kansas;

(5) maintains records of contact lenses and their corresponding valid, unexpired prescription dispensed in Kansas;

(6) agrees to cooperate with the state board of healing arts in providing information to the regulatory agency of any state where it is licensed or registered concerning matters related to the dispensing of contact lenses in Kansas;

(7) provides a toll-free telephone service for responding to questions and complaints from individuals in Kansas during such person's regular hours of operation and agrees to (a) include the toll-free number in literature provided with mailed contact lenses and (b) refer all questions relating to eye care for the lenses prescribed to the licensee who determined the contact lens prescription;

(8) provides the following, or substantially equivalent, written notification to the patient whenever contact lenses are supplied:

WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING SYMPTOMS, REMOVE YOUR LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED EYE DISCOMFORT, WATERING, VISION CHANGE OR REDNESS;

(9) fills contact lens prescriptions according to the strict directions of a person licensed to practice optometry or person licensed to practice medicine and surgery in Kansas, without any deviation or substitution of lenses; and

(10) consents in writing to the personal and subject matter jurisdiction of the district courts of this state and the state board of healing arts for actions arising out of this act.

(d) *The state board of healing arts may temporarily suspend or temporarily limit the registration of any person dispensing contact lenses through the mail to Kansas residents in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that any of the requirements of subsection (c) and that the registrant's continued dispensing of contact lenses by mail to Kansas residents would constitute an imminent danger to the public health and safety.*

~~(e)~~ (e) The state board of healing arts shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the healing arts fee fund.”;

And renumbering the remaining sections accordingly;

Also on page 7, in line 38, following “65-1657” by inserting “and 65-4967”;

In the title, in line 10, by striking all following “concerning”; in line 11, by striking “resident pharmacies” and inserting “emergency proceedings under the Kansas administrative procedure act; relating to nonresident pharmacists and contact lens dispensers through the mail”; in line 12, following “65-1657” by inserting “and 65-4967”, and **Sub HB 2207** be passed as further amended.

HB 2672 be amended by adoption of the committee amendments, and be further amended by motion of Senator Barnett, on page 1, following the enacting clause, by inserting the following:

“New Section 1. (a) The Kansas legislature recognizes that failure to combat the medical and societal epidemic of obesity will result in higher mortality rate for the individuals with obesity and disastrous economic impact of medical expenses. The Kansas health policy authority shall conduct a study on the topic of bariatric surgery for the morbidly obese; the issues include, but not limited to, emerging research evidence of the positive health impact for the morbidly obese, qualification of the patients and the surgeons when the bariatric surgery is appropriate or necessary, cost analysis with insurance and medicaid reimbursement.

(b) In collaboration with the commissioner of insurance, the Kansas health policy authority shall conduct a study on the impact of extending coverage for the bariatric surgery in the state employee health care benefits program, the affordability of coverage in the small business employer group and the high risk pool and the possibility of reinsurance or state subsidies for reinsurance. The Kansas health policy authority shall submit a report on its findings and present such report to the joint committee on health policy oversight on or before November 1, 2008, and to the senate committee on financial institutions and insurance and the house committee on insurance and financial institutions on or before February 1, 2009. The joint committee on health policy oversight may introduce bills based on the study reported.

(c) All departments, boards, agencies, officers and institutions of the state and all subdivisions thereof shall cooperate with the Kansas health policy authority in carrying out its duties pursuant to this act.”;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 20, by striking “Section” and inserting “Sec.”, and **HB 2672** be passed as further amended.

HB 2771 be amended by adoption of the committee amendments, and be further amended by motion of Senator Brownlee, on page 1, following line 22, by inserting the following:

“Sec. 2. K.S.A. 2007 Supp. 44-710 is hereby amended to read as follows: 44-710. (a) *Payment.* Contributions shall accrue and become payable by each contributing employer for each calendar year in which the contributing employer is subject to the employment security law with respect to wages paid for employment. Such contributions shall become due and be paid by each contributing employer to the secretary for the employment security fund in accordance with such rules and regulations as the secretary may adopt and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ. In the payment of any contributions, a fractional part of \$.01 shall be disregarded unless it amounts to \$.005 or more, in which case it shall be increased to \$.01. Should contributions for any calendar quarter be less than ~~\$~~ \$5, no payment shall be required.

(b) *Rates and base of contributions.* (1) Except as provided in paragraph (2) of this subsection, each contributing employer shall pay contributions on wages paid by the contributing employer during each calendar year with respect to employment as provided in K.S.A. 44-710a and amendments thereto.

(2) (A) If the congress of the United States either amends or repeals the Wagner-Peyser act, the federal unemployment tax act, the federal social security act, or subtitle C of chapter 23 of the federal internal revenue code of 1986, or any act or acts supplemental to or in lieu thereof, or any part or parts of any such law, or if any such law, or any part or parts thereof, are held invalid with the effect that appropriations of funds by congress and grants thereof to the state of Kansas for the payment of costs of administration of the employment security law are no longer available for such purposes, or (B) if employers in Kansas subject to the payment of tax under the federal unemployment tax act are granted full credit against such tax for contributions or taxes paid to the secretary of labor, then, and in either such case, beginning with the year in which the unavailability of federal appropriations and grants for such purpose occurs or in which such change in liability for payment of such federal tax occurs and for each year thereafter, the rate of contributions of each contributing employer shall be equal to the total of .5% and the rate of contributions as determined for such contributing employer under K.S.A. 44-710a and amendments thereto. The amount of contributions which each contributing employer becomes liable to pay under this paragraph (2) over the amount of contributions which such contributing employer would be otherwise liable to pay shall be credited to the employment security administration fund to be disbursed and paid out under the same conditions and for the same purposes as other moneys are authorized to be paid from the employment security administration fund, except that, if the secretary determines that as of the first day of January of any year there is an excess in the employment security administration fund over the amount required to be disbursed during such year, an amount equal to such excess as determined by the secretary shall be transferred to the employment security fund.

(c) *Charging of benefit payments.* (1) The secretary shall maintain a separate account for each contributing employer, and shall credit the contributing employer's account with all the contributions paid on the contributing employer's own behalf. Nothing in the employment security law shall be construed to grant any employer or individuals in such employer's service prior claims or rights to the amounts paid by such employer into the employment security fund either on such employer's own behalf or on behalf of such individuals. Benefits paid shall be charged against the accounts of each base period employer in the proportion that the base period wages paid to an eligible individual by each such employer bears to the total wages in the base period. Benefits shall be charged to contributing employers' accounts and rated governmental employers' accounts upon the basis of benefits paid during each twelve-month period ending on the computation date.

(2) (A) Benefits paid in benefit years established by valid new claims shall not be charged to the account of a contributing employer or rated governmental employer who is a base period employer if the examiner finds that claimant was separated from the claimant's most recent employment with such employer under any of the following conditions: (i) Discharged for misconduct or gross misconduct connected with the individual's work; or (ii) leaving work voluntarily without good cause attributable to the claimant's work or the employer.

(B) Where base period wage credits of a contributing employer or rated governmental employer represent part-time employment and the claimant continues in that part-time

employment with that employer during the period for which benefits are paid, then that employer's account shall not be charged with any part of the benefits paid if the employer provides the secretary with information as required by rules and regulations. For the purposes of this subsection (c)(2)(B), "part-time employment" means any employment when an individual works concurrently for two or more employers and also works less than full-time for at least one of those employers because the individual's services are not required for the customary, scheduled full-time hours prevailing at the work place or the individual does not customarily work the regularly scheduled full-time hours due to personal choice or circumstances.

(C) No contributing employer or rated governmental employer's account shall be charged with any extended benefits paid in accordance with the employment security law, except for weeks of unemployment beginning after December 31, 1978, all contributing governmental employers and governmental rated employers shall be charged an amount equal to all extended benefits paid.

(D) No contributing employer, rated governmental employer or reimbursing employer's account shall be charged for any additional benefits paid during the period July 1, 2003 through June 30, 2004.

(E) No contributing employer or rated governmental employer's account will be charged for benefits paid a claimant while pursuing an approved training course as defined in subsection (s) of K.S.A. 44-703 and amendments thereto.

(F) No contributing employer or rated governmental employer's account shall be charged with respect to the benefits paid to any individual whose base period wages include wages for services not covered by the employment security law prior to January 1, 1978, to the extent that the employment security fund is reimbursed for such benefits pursuant to section 121 of public law 94-566 (90 Stat. 2673).

(G) With respect to weeks of unemployment beginning after December 31, 1977, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this subsection (c)(2)(G), the term "previously uncovered services" means services which were not covered employment, at any time during the one-year period ending December 31, 1975, except to the extent that assistance under title II of the federal emergency jobs and unemployment assistance act of 1974 was paid on the basis of such services, and which:

(i) Are agricultural labor as defined in subsection (w) of K.S.A. 44-703, and amendments thereto, or domestic service as defined in subsection (aa) of K.S.A. 44-703, and amendments thereto, or

(ii) are services performed by an employee of this state or a political subdivision thereof, as provided in subsection (i)(3)(E) of K.S.A. 44-703, and amendments thereto, or

(iii) are services performed by an employee of a nonprofit educational institution which is not an institution of higher education.

(H) No contributing employer or rated governmental employer's account shall be charged with respect to their pro rata share of benefit charges if such charges are of \$100 or less.

(3) The examiner shall notify any base period employer whose account will be charged with benefits paid following the filing of a valid new claim and a determination by the examiner based on all information relating to the claim contained in the records of the division of employment security. Such notice shall become final and benefits charged to the base period employer's account in accordance with the claim unless within 10 calendar days from the date the notice was sent, the base period employer requests in writing that the examiner reconsider the determination and furnishes any required information in accordance with the secretary's rules and regulations. In a similar manner, a notice of an additional claim followed by the first payment of benefits with respect to the benefit year, filed by an individual during a benefit year after a period in such year during which such individual was employed, shall be given to any base period employer of the individual who has requested such a notice within 10 calendar days from the date the notice of the valid new claim was sent to such base period employer. For purposes of this subsection (c)(3), if the required information is not submitted or postmarked within a response time limit of 10 days after the base period employer notice was sent, the base period employer shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be

barred from protesting any subsequent decisions about the claim by the secretary, a referee, the board of review or any court, except that the base period employer's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. The examiner shall notify the employer of the reconsidered determination which shall be subject to appeal, or further reconsideration, in accordance with the provisions of K.S.A. 44-709 and amendments thereto.

(4) *Time, computation and extension.* In computing the period of time for a base period employer response or appeals under this section from the examiner's or the special examiner's determination or from the referee's decision, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

(d) *Pooled fund.* All contributions and payments in lieu of contributions and benefit cost payments to the employment security fund shall be pooled and available to pay benefits to any individual entitled thereto under the employment security law, regardless of the source of such contributions or payments in lieu of contributions or benefit cost payments.

(e) *Election to become reimbursing employer; payment in lieu of contributions.* (1) Any governmental entity, Indian tribes or tribal units, (subdivisions, subsidiaries or business enterprises wholly owned by such Indian tribes), for which services are performed as described in subsection (i)(3)(E) of K.S.A. 44-703, and amendments thereto, or any nonprofit organization or group of nonprofit organizations described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income tax under section 501(a) of such code, that becomes subject to the employment security law may elect to become a reimbursing employer under this subsection (e)(1) and agree to pay the secretary for the employment security fund an amount equal to the amount of regular benefits and $\frac{1}{2}$ of the extended benefits paid that are attributable to service in the employ of such reimbursing employer, except that each reimbursing governmental employer, Indian tribes or tribal units shall pay an amount equal to the amount of regular benefits and extended benefits paid for weeks of unemployment beginning after December 31, 1978, for governmental employers and December 21, 2000, for Indian tribes or tribal units to individuals for weeks of unemployment which begin during the effective period of such election.

(A) Any employer identified in this subsection (e)(1) may elect to become a reimbursing employer for a period encompassing not less than four complete calendar years if such employer files with the secretary a written notice of such election within the 30-day period immediately following January 1 of any calendar year or within the 30-day period immediately following the date on which a determination of subjectivity to the employment security law is issued, whichever occurs later.

(B) Any employer which makes an election to become a reimbursing employer in accordance with subparagraph (A) of this subsection (e)(1) will continue to be liable for payments in lieu of contributions until such employer files with the secretary a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which such termination shall first be effective.

(C) Any employer identified in this subsection (e)(1) which has remained a contributing employer and has been paying contributions under the employment security law for a period subsequent to January 1, 1972, may change to a reimbursing employer by filing with the secretary not later than 30 days prior to the beginning of any calendar year a written notice of election to become a reimbursing employer. Such election shall not be terminable by the employer for four complete calendar years.

(D) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after January 1 of the year such election is received.

(E) The secretary, in accordance with such rules and regulations as the secretary may adopt, shall notify each employer identified in subsection (e)(1) of any determination which the secretary may make of its status as an employer and of the effective date of any election which it makes to become a reimbursing employer and of any termination of such election.

Such determinations shall be subject to reconsideration, appeal and review in accordance with the provisions of K.S.A. 44-710b and amendments thereto.

(2) *Reimbursement reports and payments.* Payments in lieu of contributions shall be made in accordance with the provisions of paragraph (A) of this subsection (e)(2) by all reimbursing employers except the state of Kansas. Each reimbursing employer shall report total wages paid during each calendar quarter by filing quarterly wage reports with the secretary which shall be filed by the last day of the month following the close of each calendar quarter. Wage reports are deemed filed as of the date they are placed in the United States mail.

(A) At the end of each calendar quarter, or at the end of any other period as determined by the secretary, the secretary shall bill each reimbursing employer, except the state of Kansas, (i) an amount to be paid which is equal to the full amount of regular benefits plus $\frac{1}{2}$ of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing employer; and (ii) for weeks of unemployment beginning after December 31, 1978, each reimbursing governmental employer and December 21, 2000, for Indian tribes or tribal units shall be certified an amount to be paid which is equal to the full amount of regular benefits and extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing governmental employer.

(B) Payment of any bill rendered under paragraph (A) of this subsection (e)(2) shall be made not later than 30 days after such bill was mailed to the last known address of the reimbursing employer, or otherwise was delivered to such reimbursing employer, unless there has been an application for review and redetermination in accordance with paragraph (D) of this subsection (e)(2).

(C) Payments made by any reimbursing employer under the provisions of this subsection (e)(2) shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of such employer.

(D) The amount due specified in any bill from the secretary shall be conclusive on the reimbursing employer, unless, not later than 15 days after the bill was mailed to the last known address of such employer, or was otherwise delivered to such employer, the reimbursing employer files an application for redetermination in accordance with K.S.A. 44-710b and amendments thereto.

(E) Past due payments of amounts certified by the secretary under this section shall be subject to the same interest, penalties and actions required by K.S.A. 44-717 and amendments thereto. (1) If any nonprofit organization or group of nonprofit organizations described in section 501(c)(3) of the federal internal revenue code of 1986 or governmental reimbursing employer is delinquent in making payments of amounts certified by the secretary under this section, the secretary may terminate such employer's election to make payments in lieu of contributions as of the beginning of the next calendar year and such termination shall be effective for such next calendar year and the calendar year thereafter so that the termination is effective for two complete calendar years. (2) Failure of the Indian tribe or tribal unit to make required payments, including assessment of interest and penalty within 90 days of receipt of the bill will cause the Indian tribe to lose the option to make payments in lieu of contributions as described pursuant to paragraph (e)(1) for the following tax year unless payment in full is received before contribution rates for the next tax year are calculated. (3) Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, as described in paragraph (2), shall have such option reinstated, if after a period of one year, all contributions have been made on time and no contributions, payments in lieu of contributions for benefits paid, penalties or interest remain outstanding.

(F) Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalties, after all collection activities deemed necessary by the secretary have been exhausted, will cause services performed by such tribe to not be treated as employment for purposes of subsection (i)(3)(E) of K.S.A. 44-703 and amendments thereto. If an Indian tribe fails to make payments required under this section, including assessments of interest and penalties, within 90 days of a final notice of delinquency, the secretary shall immediately notify the United States internal revenue service and the United States department of labor. The secretary may determine that any Indian

tribe that loses coverage pursuant to this paragraph may have services performed on behalf of such tribe again deemed "employment" if all contributions, payments in lieu of contributions, penalties and interest have been paid.

(G) In the discretion of the secretary, any employer who elects to become liable for payments in lieu of contributions and any nonprofit organization or group of nonprofit organizations described in section 501 (c)(3) of the federal internal revenue code of 1986 or governmental reimbursing employer or Indian tribe or tribal unit who is delinquent in filing reports or in making payments of amounts certified by the secretary under this section shall be required within 60 days after the effective date of such election, in the case of an eligible employer so electing, or after the date of notification to the delinquent employer under this subsection (e)(2)(G), in the case of a delinquent employer, to execute and file with the secretary a surety bond, except that the employer may elect, in lieu of a surety bond, to deposit with the secretary money or securities as approved by the secretary or to purchase and deliver to an escrow agent a certificate of deposit to guarantee payment. The amount of the bond, deposit or escrow agreement required by this subsection (e)(2)(G) shall not exceed 5.4% of the organization's taxable wages paid for employment by the eligible employer during the four calendar quarters immediately preceding the effective date of the election or the date of notification, in the case of a delinquent employer. If the employer did not pay wages in each of such four calendar quarters, the amount of the bond or deposit shall be as determined by the secretary. Upon the failure of an employer to comply with this subsection (e)(2)(G) within the time limits imposed or to maintain the required bond or deposit, the secretary may terminate the election of such eligible employer or delinquent employer, as the case may be, to make payments in lieu of contributions, and such termination shall be effective for the current and next calendar year.

(H) The state of Kansas shall make reimbursement payments quarterly at a fiscal year rate which shall be based upon: (i) The available balance in the state's reimbursing account as of December 31 of each calendar year; (ii) the historical unemployment experience of all covered state agencies during prior years; (iii) the estimate of total covered wages to be paid during the ensuing calendar year; (iv) the applicable fiscal year rate of the claims processing and auditing fee under K.S.A. 75-3798 and amendments thereto; and (v) actuarial and other information furnished to the secretary by the secretary of administration. In accordance with K.S.A. 75-3798, and amendments thereto, the claims processing and auditing fees charged to state agencies shall be deducted from the amounts collected for the reimbursement payments under this paragraph (H) prior to making the quarterly reimbursement payments for the state of Kansas. The fiscal year rate shall be expressed as a percentage of covered total wages and shall be the same for all covered state agencies. The fiscal year rate for each fiscal year will be certified in writing by the secretary to the secretary of administration on July 15 of each year and such certified rate shall become effective on the July 1 immediately following the date of certification. A detailed listing of benefit charges applicable to the state's reimbursing account shall be furnished quarterly by the secretary to the secretary of administration and the total amount of charges deducted from previous reimbursing payments made by the state. On January 1 of each year, if it is determined that benefit charges exceed the amount of prior reimbursing payments, an upward adjustment shall be made therefor in the fiscal year rate which will be certified on the ensuing July 15. If total payments exceed benefit charges, all or part of the excess may be refunded, at the discretion of the secretary, from the fund or retained in the fund as part of the payments which may be required for the next fiscal year.

(3) *Allocation of benefit costs.* The reimbursing account of each reimbursing employer shall be charged the full amount of regular benefits and $\frac{1}{2}$ of the amount of extended benefits paid except that each reimbursing governmental employer's account shall be charged the full amount of regular benefits and extended benefits paid for weeks of unemployment beginning after December 31, 1978, to individuals whose entire base period wage credits are from such employer. When benefits received by an individual are based upon base period wage credits from more than one employer then the reimbursing employer's or reimbursing governmental employer's account shall be charged in the same ratio as base period wage credits from such employer bear to the individual's total base period wage credits. Notwithstanding any other provision of the employment security law, no re-

imbursing employer's or reimbursing governmental employer's account shall be charged for payments of extended benefits which are wholly reimbursed to the state by the federal government.

(A) *Proportionate allocation (when fewer than all reimbursing base period employers are liable)*. If benefits paid to an individual are based on wages paid by one or more reimbursing employers and on wages paid by one or more contributing employers or rated governmental employers, the amount of benefits payable by each reimbursing employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bears to the total base period wages paid to the individual by all of such individual's base period employers.

(B) *Proportionate allocation (when all base period employers are reimbursing employers)*. If benefits paid to an individual are based on wages paid by two or more reimbursing employers, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of such individual's base period employers.

(4) *Group accounts*. Two or more reimbursing employers may file a joint application to the secretary for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employment of such reimbursing employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection (e)(4). Upon approval of the application, the secretary shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the secretary receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than four years and thereafter such account shall remain in effect until terminated at the discretion of the secretary or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for service performed in the employ of all members of the group. The secretary shall adopt such rules and regulations as the secretary deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subsection (e)(4), for addition of new members to, and withdrawal of active members from such accounts, and for the determination of the amounts that are payable under this subsection (e)(4) by members of the group and the time and manner of such payments.

Sec. 3. K.S.A. 2007 Supp. 44-717 is hereby amended to read as follows: 44-717. (a) (1) *Penalties on past-due reports, interest on past-due contributions, payments in lieu of contributions and benefit cost payments*. Any employer or any officer or agent of an employer, who fails to file any wage report or contribution return by the last day of the month following the close of each calendar quarter to which they are related shall pay a penalty as provided by this subsection (a) for each month or fraction of a month until the report or return is received by the secretary of labor. The penalty for each month or fraction of a month shall be an amount equal to .05% of the total wages paid by the employer during the quarter, except that no penalty shall be less than \$25 nor more than \$200 for each such report or return not timely filed. Contributions and benefit cost payments unpaid by the last day of the month following the last calendar quarter to which they are related and payments in lieu of contributions unpaid 30 days after the mailing of the statement of benefit charges, shall bear interest at the rate of 1% per month or fraction of a month until payment is received by the secretary of labor except that an employing unit, which is not theretofore subject to this law and which becomes an employer and does not refuse to make the reports, returns and contributions, payments in lieu of contributions and benefit cost payments required under this law, shall not be liable for such penalty or interest if the wage reports and contribution returns required are filed and the contributions, payments in lieu of contributions or benefit cost payments required are paid within 10 days following notification by the secretary of labor that a determination has been made fixing its status as an employer

subject to this law. Upon written request and good cause shown, the secretary of labor may abate any penalty or interest or portion thereof provided for by this subsection (a). Interest amounting to less than ~~the~~ \$5 shall be waived by the secretary of labor and shall not be collected. Penalties and interest collected pursuant to this subsection shall be paid into the special employment security fund. For all purposes under this section, amounts assessed as surcharges under subsection (j) or under K.S.A. 44-710a, and amendments thereto, shall be considered to be contributions and shall be subject to penalties and interest imposed under this section and to collection in the manner provided by this section. For purposes of this subsection, a wage report, a contribution return, a contribution, a payment in lieu of contribution or a benefit cost payment is deemed to be filed or paid as of the date it is placed in the United States mail.

(2) Notices of payment and reporting delinquency to Indian tribes or their tribal units shall include information that failure to make full payment within the prescribed time frame:

- (i) will cause the Indian tribe to be liable for taxes under FUTA;
- (ii) will cause the Indian tribe to lose the option to make payments in lieu of contributions;
- (iii) could cause the Indian tribe to be excepted from the definition of "employer," as provided in paragraph (h)(3) of K.S.A. 44-703, and amendments thereto, and services in the employ of the Indian tribe, as provided in paragraph (i)(3)(E) of K.S.A. 44-703, and amendments thereto, to be excepted from "employment."

(b) *Collection.* (1) If, after due notice, any employer defaults in payment of any penalty, contributions, payments in lieu of contributions, benefit cost payments, or interest thereon the amount due may be collected by civil action in the name of the secretary of labor and the employer adjudged in default shall pay the cost of such action. Civil actions brought under this section to collect contributions, payments in lieu of contributions, benefit cost payments, penalties, or interest thereon from an employer shall be heard by the district court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this act and cases arising under the workmen's compensation act. All liability determinations of contributions due, payments in lieu of contributions or benefit cost payments due shall be made within a period of five years from the date such contributions, payments in lieu of contributions or benefit cost payments were due except such determinations may be made for any time when an employer has filed fraudulent reports with intent to evade liability.

(2) Any employing unit which is not a resident of this state and which exercises the privilege of having one or more individuals perform service for it within this state and any resident employing unit which exercises that privilege and thereafter removes from this state, shall be deemed thereby to appoint the secretary of state as its agent and attorney for the acceptance of process in any civil action under this subsection. In instituting such an action against any such employing unit the secretary of labor shall cause such process or notice to be filed with the secretary of state and such service shall be sufficient service upon such employing unit and shall be of the same force and validity as if served upon it personally within this state. The secretary of labor shall send notice immediately of the service of such process or notice, together with a copy thereof, by registered or certified mail, return receipt requested, to such employing unit at its last-known address and such return receipt, the affidavit of compliance of the secretary of labor with the provisions of this section, and a copy of the notice of service, shall be appended to the original of the process filed in the court in which such civil action is pending.

(3) The district courts of this state shall entertain, in the manner provided in subsections (b)(1) and (b)(2), actions to collect contributions, payments in lieu of contributions, benefit cost payments and other amounts owed including interest thereon for which liability has accrued under the employment security law of any other state or of the federal government.

(c) *Priorities under legal dissolutions or distributions.* In the event of any distribution of employer's assets pursuant to an order of any court under the laws of this state, including but not limited to any probate proceeding, interpleader, receivership, assignment for benefit of creditors, adjudicated insolvency, composition or similar proceedings, contributions or payments in lieu of contributions then or thereafter due shall be paid in full from the moneys which shall first come into the estate, prior to all other claims, except claims for wages of not more than \$250 to each claimant, earned within six months of the commencement of

the proceedings. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal bankruptcy act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in that act for taxes due any state of the United States.

(d) *Assessments.* If any employer fails to file a report or return required by the secretary of labor for the determination of contributions, or payments in lieu of contributions, or benefit cost payments, the secretary of labor may make such reports or returns or cause the same to be made, on the basis of such information as the secretary may be able to obtain and shall collect the contributions, payments in lieu of contributions or benefit cost payments as determined together with any interest due under this act. The secretary of labor shall immediately forward to the employer a copy of the assessment by registered or certified mail to the employer's address as it appears on the records of the agency, and such assessment shall be final unless the employer protests such assessment and files a corrected report or return for the period covered by the assessment within 15 days after the mailing of the copy of assessment. Failure to receive such notice shall not invalidate the assessment. Notice in writing shall be presumed to have been given when deposited as certified or registered matter in the United States mail, addressed to the person to be charged with notice at such person's address as it appears on the records of the agency.

(e) (1) *Lien.* If any employer or person who is liable to pay contributions, payments in lieu of contributions or benefit cost payments neglects or refuses to pay the same after demand, the amount, including interest and penalty, shall be a lien in favor of the state of Kansas, secretary of labor, upon all property and rights to property, whether real or personal, belonging to such employer or person. Such lien shall not be valid as against any mortgagee, pledgee, purchaser or judgment creditor until notice thereof has been filed by the secretary of labor in the office of register of deeds in any county in the state of Kansas, in which such property is located, and when so filed shall be notice to all persons claiming an interest in the property of the employer or person against whom filed. The register of deeds shall enter such notices in the financing statement record and shall also record the same in full in miscellaneous record and index the same against the name of the delinquent employer. The register of deeds shall accept, file, and record such notice without prepayment of any fee, but lawful fees shall be added to the amount of such lien and collected when satisfaction is presented for entry. Such lien shall be satisfied of record upon the presentation of a certificate of discharge by the state of Kansas, secretary of labor. Nothing contained in this subsection (e) shall be construed as an invalidation of any lien or notice filed in the name of the unemployment compensation division or the employment security division and such liens shall be and remain in full force and effect until satisfied as provided by this subsection (e).

(2) *Authority of secretary or authorized representative.* If any employer or person who is liable to pay any contributions, payments in lieu of contributions or benefit cost payments, including interest and penalty, neglects or refuses to pay the same within 10 days after notice and demand therefor, the secretary or the secretary's authorized representative may collect such contributions, payments in lieu of contributions or benefit cost payments, including interest and penalty, and such further amount as is sufficient to cover the expenses of the levy, by levy upon all property and rights to property which belong to the employer or person or which have a lien created thereon by this subsection (e) for the payment of such contributions, payments in lieu of contributions or benefit cost payments, including interest and penalty. As used in this subsection (e), "property" includes all real property and personal property, whether tangible or intangible, except such property which is exempt under K.S.A. 60-2301 et seq. and amendments thereto. Levy may be made upon the accrued salary or wages of any officer, employee or elected official of any state or local governmental entity which is subject to K.S.A. 60-723, and amendments thereto, by serving a notice of levy as provided in subsection (d) of K.S.A. 60-304 and amendments thereto. If the secretary or the secretary's authorized representative makes a finding that the collection of the amount of such contributions, payments in lieu of contributions or benefit cost payments, including interest and penalty, is in jeopardy, notice and demand for immediate payment of such amount may be made by the secretary or the secretary's authorized representative and, upon

failure or refusal to pay such amount, immediate collection of such amount by levy shall be lawful without regard to the 10-day period provided in this subsection (e).

(3) *Seizure and sale of property.* The authority to levy granted under this subsection (e) includes the power of seizure by any means. A levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the secretary or the secretary's authorized representative may levy upon property or rights to property, the secretary or the secretary's authorized representative may seize and sell such property or rights to property.

(4) *Successive seizures.* Whenever any property or right to property upon which levy has been made under this subsection (e) is not sufficient to satisfy the claim of the secretary for which levy is made, the secretary or the secretary's authorized representative may proceed thereafter and as often as may be necessary, to levy in like manner upon any other property or rights to property which belongs to the employer or person against whom such claim exists or upon which a lien is created by this subsection (e) until the amount due from the employer or person, together with all expenses, is fully paid.

(f) *Warrant.* In addition or as an alternative to any other remedy provided by this section and provided that no appeal or other proceeding for review permitted by this law shall then be pending and the time for taking thereof shall have expired, the secretary of labor or an authorized representative of the secretary may issue a warrant certifying the amount of contributions, payments in lieu of contributions, benefit cost payments, interest or penalty, and the name of the employer liable for same after giving 15 days prior notice. Upon request, service of final notices shall be made by the sheriff within the sheriff's county, by the sheriff's deputy or some person specially appointed by the secretary for that purpose, or by the secretary's designee. A person specially appointed by the secretary or the secretary's designee to serve final notices may make service any place in the state. Final notices shall be served as follows:

(1) *Individual.* Service upon an individual, other than a minor or incapacitated person, shall be made by delivering a copy of the final notice to the individual personally or by leaving a copy at such individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, by leaving a copy at the business establishment of the employer with an officer or employee of the establishment, or by delivering a copy to an agent authorized by appointment or by law to receive service of process, but if the agent is one designated by a statute to receive service, such further notice as the statute requires shall be given. If service as prescribed above cannot be made with due diligence, the secretary or the secretary's designee may order service to be made by leaving a copy of the final notice at the employer's dwelling house, usual place of abode or business establishment.

(2) *Corporations and partnerships.* Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association, when by law it may be sued as such, shall be made by delivering a copy of the final notice to an officer, partner or resident managing or general agent thereof by leaving a copy at any business office of the employer with the person having charge thereof or by delivering a copy to any other agent authorized by appointment or required by law to receive service of process, if the agent is one authorized by law to receive service and, if the law so requires, by also mailing a copy to the employer.

(3) *Refusal to accept service.* In all cases when the person to be served, or an agent authorized by such person to accept service of petitions and summonses, shall refuse to receive copies of the final notice, the offer of the duly authorized process server to deliver copies thereof and such refusal shall be sufficient service of such notice.

(4) *Proof of service.* (A) Every officer to whom a final notice or other process shall be delivered for service within or without the state, shall make return thereof in writing stating the time, place and manner of service of such writ, and shall sign such officer's name to such return.

(B) If service of the notice is made by a person appointed by the secretary or the secretary's designee to make service, such person shall make an affidavit as to the time, place and manner of service thereof in a form prescribed by the secretary or the secretary's designee.

(5) *Time for return.* The officer or other person receiving a final notice shall make a return of service promptly and shall send such return to the secretary or the secretary's designee in any event within 10 days after the service is effected. If the final notice cannot be served it shall be returned to the secretary or the secretary's designee within 30 days after the date of issue with a statement of the reason for the failure to serve the same. The original return shall be attached to and filed with any warrant thereafter filed.

(6) *Service by mail.* (A) Upon direction of the secretary or the secretary's designee, service by mail may be effected by forwarding a copy of the notice to the employer by registered or certified mail to the employer's address as it appears on the records of the agency. A copy of the return receipt shall be attached to and filed with any warrant thereafter filed.

(B) The secretary of labor or an authorized representative of the secretary may file the warrant for record in the office of the clerk of the district court in the county in which the employer owing such contributions, payments in lieu of contributions, benefit cost payments, interest, or penalty has business property. The warrant shall certify the amount of contributions, payments in lieu of contributions, benefit cost payments, interest and penalty due, and the name of the employer liable for such amount. It shall be the duty of the clerk of the district court to file such warrant of record and enter the warrant in the records of the district court for judgment and decrees under the procedure prescribed for filing transcripts of judgment.

(C) The clerk shall enter, on the day the warrant is filed, the case on the appearance docket, together with the amount and the time of filing the warrant. From the time of filing such warrant, the amount of the contributions, payments in lieu of contributions, benefit cost payments, interest, and penalty, certified therein, shall have the force and effect of a judgment of the district court until the same is satisfied by the secretary of labor or an authorized representative or attorney for the secretary. Execution shall be issuable at the request of the secretary of labor, an authorized representative or attorney for the secretary, as is provided in the case of other judgments.

(D) Postjudgment procedures shall be the same as for judgments according to the code of civil procedure.

(E) Warrants shall be satisfied of record by payment to the clerk of the district court of the contributions, payments in lieu of contributions, benefit cost payments, penalty, interest to date, and court costs. Warrants may also be satisfied of record by payment to the clerk of the district court of all court costs accrued in the case and by filing a certificate by the secretary of labor, certifying that the contributions, payments in lieu of contributions, benefit cost payments, interest and penalty have been paid.

(g) *Remedies cumulative.* The foregoing remedies shall be cumulative and no action taken shall be construed as an election on the part of the state or any of its officers to pursue any remedy or action under this section to the exclusion of any other remedy or action for which provision is made.

(h) *Refunds.* If any individual, governmental entity or organization makes application for refund or adjustment of any amount paid as contributions, benefit cost payments or interest under this law and the secretary of labor determines that such amount or any portion thereof was erroneously collected, except for amounts less than ~~\$1~~ \$5, the secretary of labor shall allow such individual or organization to make an adjustment thereof, in connection with subsequent contribution payments, or if such adjustment cannot be made the secretary of labor shall refund the amount, except for amounts less than ~~\$1~~ \$5, from the employment security fund, except that all interest erroneously collected which has been paid into the special employment security fund shall be refunded out of the special employment security fund. No adjustment or refund shall be allowed with respect to a payment as contributions, benefit cost payments or interest unless an application therefor is made on or before whichever of the following dates is later: (1) One year from the date on which such payment was made; or (2) three years from the last day of the period with respect to which such payment was made. For like cause and within the same period adjustment or refund may be so made on the secretary's own initiative. The secretary of labor shall not be required to refund any contributions, payments in lieu of contributions or benefit cost payments based upon wages paid which have been used as base-period wages in a determination of a claimant's benefit rights when justifiable and correct payments have been made to the claimant as the result

of such determination. For all taxable years commencing after December 31, 1997, interest at the rate prescribed in K.S.A. 79-2968, and amendments thereto, shall be allowed on a contribution or benefit cost payment which the secretary has determined was erroneously collected pursuant to this section.

(i) (1) *Cash deposit or bond.* If any contributing employer is delinquent in making payments under the employment security law during any two quarters of the most recent four-quarter period, the secretary or the secretary's authorized representative shall have the discretionary power to require such contributing employer either to deposit cash or to file a bond with sufficient sureties to guarantee the payment of contributions, penalty and interest owed by such employer.

(2) The amount of such cash deposit or bond shall be not less than the largest total amount of contributions, penalty and interest reported by the employer in two of the four calendar quarters preceding any delinquency. Such cash deposit or bond shall be required until the employer has shown timely filing of reports and payment of contributions for four consecutive calendar quarters.

(3) Failure to file such cash deposit or bond shall subject the employer to a surcharge of 2.0% which shall be in addition to the rate of contributions assigned to the employer under K.S.A. 44-710a and amendments thereto. Contributions paid as a result of this surcharge shall not be credited to the employer's experience rating account. This surcharge shall be effective during the next full calendar year after its imposition and during each full calendar year thereafter until the employer has filed the required cash deposit or bond or has shown timely filing of reports and payment of contributions for four consecutive calendar quarters.

(j) Any officer, major stockholder or other person who has charge of the affairs of an employer, which is an employing unit described in section 501(c)(3) of the federal internal revenue code of 1954 or which is any other corporate organization or association, or any member or manager of a limited liability company, or any public official, who willfully fails to pay the amount of contributions, payments in lieu of contributions or benefit cost payments required to be paid under the employment security law on the date on which such amount becomes delinquent, shall be personally liable for the total amount of the contributions, payments in lieu of contributions or benefit cost payments and any penalties and interest due and unpaid by such employing unit. The secretary or the secretary's authorized representative may assess such person for the total amount of contributions, payments in lieu of contributions or benefit cost payments and any penalties, and interest computed as due and owing. With respect to such persons and such amounts assessed, the secretary shall have available all of the collection remedies authorized or provided by this section.

(k) *Electronic filing of wage report and contribution return and electronic payment of contributions, benefit cost payments or reimbursing payments. The following employers or third party administrators shall file all wage reports and contribution returns and make payment of contributions, benefit cost payments or reimbursing payments electronically as follows:*

(1) *Wage reports, contribution returns and payments due after June 30, 2008, for those employers with 250 or more employees or third party administrators with 250 or more client employees at the time such filing or payment is first due;*

(2) *wage reports, contribution returns and payments due after June 30, 2009, for those employers with 100 or more employees or third party administrators with 100 or more client employees at the time such filing or payment is first due; and*

(3) *wage reports, contribution returns and payments due after June 30, 2010, for those third party administrators with 50 or more client employees at the time such filing or payment is first due.*

The requirements of this subsection may be waived by the secretary for an employer if the employer demonstrates a hardship in complying with this subsection.”;

And by renumbering remaining sections accordingly;

On page 2, in line 36, preceding “are” by inserting “and K.S.A. 2007 Supp. 44-710 and 44-717”;

On page 1, in the title, in line 11, by striking all following “concerning” by striking all in line 12; in line 13, by striking all preceding the semicolon, where it appears for the second

time, and inserting "employment"; in line 14, following "44-1118" by inserting "and K.S.A. 2007 Supp. 44-710 and 44-717, and **HB 2771** be passed as further amended.

The committee report on **HB 2097**, recommending a **S Sub HB 2097** be adopted, and the substitute bill be passed.

The committee report on **HB 2110**, recommending a **S Sub HB 2110** be adopted, and the substitute bill be passed.

The committee report on **HB 2210**, recommending a **S Sub HB 2210** be adopted, and the substitute bill be passed.

The committee rose and reported progress. (See Committee of the Whole Afternoon Session).

On motion of Senator D. Schmidt, the Senate recessed until 1:30 p.m.

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2616, HB 2786, HB 2843, HB 2924, HB 2932, HB 2973**.
Passage of **SB 464, SB 518, Substitute SB 535**.

Also, passage of **SB 46, as amended, SB 169, as amended by House Substitute for SB 169; SB 309, as amended by House Substitute for SB 309; SB 329, as amended by House Substitute for SB 329; SB 379, as amended by House Substitute for SB 379; Substitute SB 453, as amended, SB 469, as amended, Substitute SB 491, as amended; SB 512, as amended, SB 565, as amended, SB 570, as amended, SB 586, as amended**.

The House nonconcur in Senate amendments to **HB 2637**, requests a conference and appoints Representatives C. Holmes, Olson and Kuether as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2734**, requests a conference and appoints Representatives Aurand, Horst and Storm as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2780**, requests a conference and appoints Representatives O'Neal, Kinzer and Pauls as conferees on the part of the House.

The House concurs in Senate amendments to **HB 2188**.

The House accedes to the request of the Senate for a conference on **SB 512** and has appointed Representatives Hayzlett, Peck and Long as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2616, HB 2786, HB 2843, HB 2924, HB 2932, HB 2973 were thereupon introduced and read by title.

ORIGINAL MOTION

Pursuant to Senate Rule 75, President Morris determined **SB 469**, as amended by the House, to be materially changed.

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

CHANGE OF REFERENCE

The President withdrew **HB 2006** from the Committee on **Commerce**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **HB 2315** from the Calendar under the heading of General Orders, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **HB 2620** from the Calendar under the heading of General Orders, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **HB 2632** from the Calendar under the heading of General Orders, and referred the bill to the Committee on **Ways and Means**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **H Sub for SB 32** and requested a conference committee be appointed.

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

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **SB 404** 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.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 411** and requested a conference committee be appointed.

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

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **H Sub for SB 414** and requested a conference committee be appointed.

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

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 430** and requested a conference committee be appointed.

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

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **SB 470** 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.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 476** and requested a conference committee be appointed.

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

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 481** and requested a conference committee be appointed.

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

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 545** and requested a conference committee be appointed.

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

On motion of Senator Emler the Senate nonconcurred in the House amendments to **SB 555** and requested a conference committee be appointed.

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

On motion of Senator Emler the Senate nonconcurred in the House amendments to **SB 580** and requested a conference committee be appointed.

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

ORIGINAL MOTION

On motion of Senator Emler, the Senate acceded to the request of the House for a conference on **HB 2637**.

The President appointed Senators Emler, Apple and Lee as conferees on the part of the Senate.

On motion of Senator Schodorf, the Senate acceded to the request of the House for a conference on **HB 2734**.

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

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2780**.

The President appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Committee on **Federal and State Affairs** introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1846—

By Committee on Federal and State Affairs

A RESOLUTION calling upon the members of the Board of Healing Arts to promptly make changes in personnel as necessary to ensure that the board effectively fulfills its statutory duties and to restore public confidence in the board's operations and activities.

WHEREAS, The Kansas Board of Healing Arts is charged by K.S.A. 65-2801 et seq. with protecting the Kansas public against "unprofessional, improper, unauthorized and unqualified practice of the healing arts"; and

WHEREAS, A 2006 legislative post audit identified serious problems with delay and slow resolution of various complaints and cases by the Board of Healing Arts; and

WHEREAS, The Senate Health Care Strategies Committee recently conducted public hearings that identified problems with agency operations; and

WHEREAS, The Office of United States Attorney for the District of Kansas has expressed concern about certain operations of the Board of Healing Arts in connection with a case or cases in which the alleged conduct of a licensee of the Board of Healing Arts was so egregious as to result in federal criminal prosecution; and

WHEREAS, Recent high-profile cases have cast further doubt upon whether the Kansas Board of Healing Arts is functioning in a manner that meets its statutory duty to protect the people of Kansas; and

WHEREAS, The Senate is considering legislation, developed in consultation with the Board of Healing Arts and with medical professionals, to improve the statutory authority of the Board of Healing Arts to better carry out its statutory duty; and

WHEREAS, Senior staff of the Board of Healing Arts serve at the pleasure of the members of the Board of Healing Arts and confidence in the ability of the senior staff at the Board of Healing Arts to remedy the identified problems is essential; and

WHEREAS, Statutory changes alone are unlikely to restore public confidence in the ability of the Board of Healing Arts to properly fulfill its statutory duty to protect the public: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Senate calls upon the members of the Board of Healing Arts to promptly make such changes in personnel as may be necessary to ensure that the board effectively fulfills its statutory duties and to restore public confidence in the board's operations and activities; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to each member of the Board of Healing Arts.

The President referred **SR 1846** to the Committee of the Whole.

COMMITTEE OF THE WHOLE

The Senate returned to the Committee of the Whole for consideration of bills under the heading of General Orders with Senator Bruce in the Chair.

On motion of Senator Bruce the report for the morning and the following afternoon sessions were adopted:

Recommended **SB 2704** be passed.

Sub HB 2618 be amended by adoption of the committee amendments and be further amended by motion of Senator Vratil, on page 6, in line 39, following the period by inserting "Adjudicative hearing shall not include hearings or proceedings conducted by the department of corrections or parole board.";

Sub HB 2618 be further amended by motion of Senator Vratil, on page 6, in line 39, following the period by inserting “ “Adjudicative hearing” shall not include any informal conference conducted pursuant to or in the manner prescribed by K.S.A. 79-5a05, 79-6a04, 79-3226 or subsection (d) of 79-5205, and amendments thereto, or any administrative hearing authorized pursuant to K.S.A. 8-255 or 8-1020, and amendments thereto.”;

Sub HB 2618 be further amended by motion of Senator V. Schmidt, on page 16, following line 4, by inserting the following:

“New Sec. 13. (a) Notwithstanding any other provision of law, if any state agency’s order is adverse to a party to a state agency proceeding, costs incurred by the state agency in conducting any proceeding under the Kansas administrative procedure act may be assessed against the parties to the proceeding in such proportion of all relevant circumstances including the nature of the proceeding and the level of participation by the parties. If the state agency is the unsuccessful party, the costs shall be paid by the state agency.

(b) This section shall be part of and supplemental to the Kansas administrative procedure act.”;

And by renumbering the remaining sections accordingly;

Sub HB 2618 be further amended by motion of Senator Journey, on page 6, in line 4, by striking “and” and inserting a comma; also in line 4, preceding the period by inserting “or the Kansas insurance department as to hearings held under K.S.A. 40-222b, 40-2c19, 40-2d19, 40-510, 40-512, 40-1219a, 40-1618, 40-1706, 40-2109, 40-3011, 40-3302, 40-3304, 40-3305, 40-3308, 40-3309, 40-3413, 40-3610, 40-3613, 40-3625, 40-4002 and 40-4004, and amendments thereto”;

On page 14, following line 14, by inserting the following:

“(3) Notwithstanding any other provision of law to the contrary, all adjudicative hearings of the Kansas insurance department held under K.S.A. 40-222b, 40-2c19, 40-2d19, 40-510, 40-512, 40-1219a, 40-1618, 40-1706, 40-2109, 40-3011, 40-3302, 40-3304, 40-3305, 40-3308, 40-3309, 40-3413, 40-3610, 40-3613, 40-3625, 40-4002 and 40-4004, and amendments thereto, the presiding officer shall be the agency head as provided by law.”;

Sub HB 2618 be further amended by motion of Senator Vratil, on page 1, in the title, in line 15, by striking “and 77-621” and inserting “, 77-621 and 82a-1037”; in line 16, by striking “, 77-551 and 82a-1037” and inserting “and 77-551”;

Sub HB 2618 be further amended by motion of Senator Bruce, on page 16, line 7, by striking “the chief”; on page 16, Line 8, by striking “engineer shall hold and conduct”; on page 16, Line 10, by inserting “shall be conducted” after the word “area” and before the “.”;

A motion by Senator V. Schmidt to amend **Sub HB 2618** failed and the following amendment was rejected: on page 4, in line 7, by striking “2009” and inserting “2012”;

On page 13, in line 33, by striking “2009” and inserting “2012”; in line 40, by striking “2009” and inserting “2012”;

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

On roll call, the vote was: Yeas 19, Nays 21, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Barone, Betts, Brownlee, Brungardt, Donovan, Gilstrap, Haley, Hensley, Jordan, Lynn, McGinn, Pine, Reitz, Schmidt V, Steineger, Teichman, Umbarger, Wysong.

Nays: Apple, Barnett, Bruce, Emler, Francisco, Goodwin, Huelskamp, Journey, Kelly, Lee, Morris, Ostmeyer, Palmer, Petersen, Pyle, Schmidt D, Schodorf, Taddiken, Vratil, Wagle, Wilson.

The motion failed and the amendment was rejected.

Sub HB 2618 be further amended by motion of Senator Pine, on page 6, in line 4, by striking “and” and inserting a comma; also in line 4, preceding the period, by inserting “, the Kansas real estate commission and the Kansas board of veterinary examiners.”;

On page 14, in line 8, by striking “and” and inserting a comma; in line 10, preceding “the” by inserting “, the Kansas real estate commission and the Kansas board of veterinary examiners”;

A motion by Senator Taddiken to amend **Sub HB 2618** failed and the following amendment was rejected: on page 16, line 18, by inserting following “shall” by “not”;

A motion by Senator Taddiken to amend **Sub HB 2618** was withdrawn;

Senator Haley moved **Sub HB 2618** be returned to **Committee on Judiciary**.

Upon a showing of 5 hands, a roll call vote was requested.

On roll call, the vote was: Yeas 21, Nays 19, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Barone, Betts, Brownlee, Brungardt, Emler, Francisco, Gilstrap, Haley, Hensley, Kelly, Lee, Lynn, McGinn, Pine, Reitz, Schmidt V, Steineger, Taddiken, Teichman, Wysong.

Nays: Apple, Barnett, Bruce, Donovan, Goodwin, Huelskamp, Jordan, Journey, Morris, Ostmeyer, Palmer, Petersen, Pyle, Schmidt D, Schodorf, Umbarger, Vratil, Wagle, Wilson.

The motion passed.

Senator Brungardt offered an amendment to **Sub HB 2618**; a ruling of the chair was requested as to the germaneness of the amendment. The chair ruled the amendment not germane to the bill.

Sub HB 2625 be amended by adoption of the committee amendments and be further amended by motion of Senator Ostmeyer, on page 5, in line 16, by striking "Whenever" and inserting "In an area which is located within the boundaries of an existing groundwater management district or districts, only when"; in line 22, after "district" by inserting "or districts"; in line 24, by striking "Except as provided in subsection (c)" and inserting "In an area which is located outside the boundaries of an existing groundwater management district"; in line 25, by striking ", either"; in line 26, by striking all before "whenever"; in line 28, by striking "in a groundwater use area"; by striking all in lines 39 through 43;

On page 6, by striking all in lines 1 through 33, and **Sub HB 2625** be passed as further amended.

A motion by Senator Ostmeyer to further amend **Sub HB 2625** was withdrawn.

HB 2683 be amended by adoption of the committee amendments and be further amended by motion of Senator D. Schmidt, on page 2, in line 35, after "state" by inserting "or 5,000 whichever is less";

HB 2683 be further amended by motion of Senator D. Schmidt, on 3, after line 37, by inserting the following:

"New Sec. 12. Whenever any vacancy shall occur in the office of state treasurer, 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. 13. 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 14 and amendments thereto.

New Sec. 14. (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. 15. Whenever a vacancy has occurred in the office of state treasurer 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 13, and amendments thereto, does not apply, and

within 15 days in cases to which subsection (a) or (b) of section 13, 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 or 5,000 whichever is less. 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. 16. 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. 17. 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. 18. 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 the regular election of the state treasurer.

New Sec. 19. Election laws of the state not inconsistent with the provisions of this act shall apply to elections held under this act.

New Sec. 20. Sections 12 through 20, and amendments thereto, shall be known and may be cited as the vacancy in the state treasurer act.

Sec. 21. K.S.A. 25-101b is hereby amended to read as follows: 25-101b. At the general election held in 1978 and each four (4) years thereafter, there shall be elected a treasurer for the state of Kansas, whose term of office shall be four (4) years beginning on the second Monday in January next succeeding such treasurer's election. In case of a vacancy in such office, the governor shall appoint some suitable person to serve for the unexpired term and until a successor is elected and qualified there shall be an election to fill such vacancy. *The election shall be held in accordance with the vacancy in the state treasurer act.*;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 38, before "25-318" by inserting "25-101b,";

In the title, in line 12, after the semicolon by inserting "pertaining to vacancy in the office of state treasurer,"; also in line 12, after "K.S.A." by inserting "25-101b,";

HB 2683 be further amended by motion of Senator Hensley, on page 3, after line 37, by inserting the following:

"Sec. 12. From and after January 1, 2010, K.S.A. 2007 Supp. 25-4501 is hereby amended to read as follows: 25-4501. (a) Subject to the provisions of this section, there shall be held a presidential preference primary election in the year 2012, *on the first Saturday in February*, and every fourth year thereafter.

(b) ~~On or before November 1, 2011, and on or before November 1 every fourth year thereafter, the secretary of state shall certify to the governor, to the chief clerk of the house of representatives and to the secretary of the senate a common date in the next succeeding year on which at least five other states will hold a presidential preference primary election,~~

a delegate or mass convention or a caucus of qualified voters at which delegates to a national convention are selected. On or before each such date, if the secretary of state determines that there is no common date on which at least five states are conducting such a selection process in the next succeeding year, the secretary of state shall certify to the governor, the chief clerk of the house of representatives and the secretary of the senate on a date, which shall be on or before the first Tuesday in April of the next following year, on which the presidential preference primary election shall be held.

~~—(c) The date certified by the secretary of state pursuant to subsection (b) shall be the date on which the presidential preference primary election authorized by subsection (a) shall be held in the state of Kansas.~~

Sec. 13. From and after January 1, 2010, K.S.A. 25-4502 is hereby amended to read as follows: 25-4502. (a) Every registered elector who has declared such elector's party affiliation with a political party eligible to participate in a state primary election shall have the opportunity to vote one vote at a presidential preference primary election for such elector's preference for one person to be the candidate for nomination by such candidate's party for president of the United States or for "none of the names shown." Any registered elector who has not declared such candidate's party affiliation prior to the election may make such a declaration at the polling place, and thereupon shall be permitted likewise the opportunity to vote one vote at the presidential preference primary. A vote for "none of the names shown" shall express the preference for an uncommitted delegation from Kansas to the national convention of that elector's party. Preference shall be indicated by marking with a cross or check mark inside a voting square on the ballot at the left of the voter's choice, or by voting by using a voting machine.

(b) The name of any candidate for a political party nomination for president of the United States shall be printed on the ballots only if, not later than twelve o'clock noon, ~~February 12~~ ~~prior to on the date which precedes by seven weeks the date of~~ the presidential preference primary or, if such date falls on Saturday, Sunday or a holiday, not later than twelve o'clock noon the following day that is not a Saturday, Sunday or holiday:

(1) The candidate files with the secretary of state a declaration of intent to become a candidate accompanied by a fee of \$100; or

(2) there is filed in the office of secretary of state a petition in the form prescribed by K.S.A. 25-205, and amendments thereto, signed by not less than 1,000 registered electors, who are affiliated with the political party of such candidate as shown by the party affiliation list. The secretary of state shall determine the sufficiency of each such petition, and such determination shall be final.

Sec. 14. From and after January 1, 2010, K.S.A. 25-4503 is hereby amended to read as follows: 25-4503. (a) The names of the candidates for nomination for president of the United States by a political party eligible to participate in a state primary election shall be printed on the official ballots for the presidential preference primary elections of their respective parties along with the choice of "none of the names shown." The ballots shall be marked, returned and canvassed in the same manner and under the same conditions, so far as the same are applicable, as in the case of the primary election of candidates for nomination for state offices.

(b) The official presidential preference primary election ballots shall be printed in a single column and shall have the following heading:

OFFICIAL PRESIDENTIAL PREFERENCE PRIMARY ELECTION BALLOT

_____ Party

To vote for a person whose name is printed on the ballot make a cross or check mark in the square to the left of the name of the person for whom you desire to vote. To vote for "none of the names shown" make a cross or check mark in the square to the left of such words.

This shall be followed by the names of the candidates for president of the United States of such party in the manner and order certified by the secretary of state.

(c) As soon as possible after ~~February 12~~ ~~the candidate filing deadline as specified in subsection (b) of K.S.A. 25-4502, and amendments thereto,~~ secretary of state shall certify to each county election officer the name of each person who is a candidate for nomination to

be president of the United States of each party authorized to participate in the presidential preference primary election. The secretary of state shall publish, not less than 21 days prior to the presidential preference primary, a notice in one newspaper in each county of the state where a newspaper is published, that the official list of candidates and the date of the election can be acquired in the office of the secretary of state or the office of the county election officer.

(d) When a party participating in the presidential preference primary election has more than one candidate, the secretary of state shall determine by lot the order in which the candidates' names will appear on the ballot. The order of names, as established by the secretary of state, shall be uniform in each county throughout the state.

Sec. 15. From and after January 1, 2010, K.S.A. 25-4502 and 25-4503 and K.S.A. 2007 Supp. 25-4501 are hereby repealed.”;

And by renumbering the remaining sections accordingly;

In the title, in line 12, after the semicolon by inserting “pertaining to the presidential primary;”; also in line 12, by striking “and 25-3501” and inserting “, 25-3501, 25-4502 and 25-4503 and K.S.A. 2007 Supp. 25-4501”, and **HB 2683** be passed as further amended.

On a showing of five hands a roll call vote was requested on Senator Hensley's amendment.

On roll call, the vote was: Yeas 22, Nays 18, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, Lynn, Morris, Petersen, Pine, Schmidt D, Steineger, Wagle.

Nays: Bruce, Brungardt, Donovan, Emler, Huelskamp, McGinn, Ostmeyer, Palmer, Pyle, Reitz, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

The motion carried and the amendment was adopted.

EXPLANATION OF VOTE

MR. CHAIRMAN: I am a strong supporter of the opportunity for Kansans to vote in presidential primaries and voted this many times last year. But this amendment, however, has no affect on whether or not Kansans will actually have an opportunity to vote in a 2012 presidential preference primary. That is already guaranteed by Kansas law. This amendment simply prematurely specifies a date for our 2012 primary. I thus vote “no.” — TIM HUELSKAMP

MR. CHAIRMAN: I vote “AYE” on the amendment (on HB 2683) to insure a date certain for the presidential preference primary (PPP) as the first Saturday in February of 2010. As the Democratic nominee in 2006 for Kansas Secretary of State, I can well attest that voters *all over Kansas* wanted to vote in their respective precincts for their respective party's nominee for president. To his credit (despite not authorizing a PPP for his entire administrative reign), even my opponent — Secretary of State, Ron Thornburgh — lobbied the legislature for funding for a PPP in 2008, which obviously was unprecedented. The 2008 caucuses repressed enthusiastic voters in both parties; marginalizing and disenfranchising due to conditions of weather and distance of travel among other things. We can not, we should not, as products ourselves of democracy ever allow this to happen in Kansas again. Democracy never “costs too much.” A \$1.5 million appropriation is *nothing* to our state budget if it encourages and inspires both existing as well as future generations to stand up and be counted. — DAVID HALEY

The committee report on **HB 2097**, recommending a **S Sub HB 2097** be adopted, and the substitute bill be passed.

Senator Huelskamp withdrew an amendment on **HB 2683**.

Senator Hensley withdrew amendments on **HB 2683**.

Upon unanimous consent Senator D. Schmidt moved **SR 1846** to the top of calendar under the heading of General Orders.

SR 1846 be adopted.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 700, An act concerning tort claims; expanding the definition of employee; amending K.S.A. 2007 Supp. 75-6102 and repealing the existing section, by Committee on Ways and Means.

MESSAGE FROM THE GOVERNOR

SB 421 approved on March 28, 2008.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 562**, as amended.

The House noncurs in Senate amendments to **Senate Substitute for HB 2119**, requests a conference and appoints Representatives **Hayzlett, Peck** and **Long** as conferees on the part of the House.

The House noncurs in Senate amendments to **HB 2307**, requests a conference and appoints Representatives **Burgess, Powers** and **Sawyer** as conferees on the part of the House.

The House noncurs in Senate amendments to **HB 2617**, requests a conference and appoints Representatives **O'Neal, Kinzer** and **Pauls** as conferees on the part of the House.

The House noncurs in Senate amendments to **HB 2727**, requests a conference and appoints Representatives **O'Neal, Kinzer** and **Pauls** as conferees on the part of the House.

The House noncurs in Senate amendments to **HB 2746**, requests a conference and appoints Representatives **Brunk, Kiegerl** and **Ruiz** as conferees on the part of the House.

The House noncurs in Senate amendments to **HB 2772**, requests a conference and appoints Representatives **Brunk, Kiegerl** and **Ruiz** as conferees on the part of the House.

The House noncurs in Senate amendments to **HB 2845**, requests a conference and appoints Representatives **O'Neal, Kinzer** and **Pauls** as conferees on the part of the House.

The House noncurs in Senate amendments to **HB 2858**, requests a conference and appoints Representatives **McLeland, O'Neal** and **Grant** as conferees on the part of the House.

The House noncurs in Senate amendments to **HB 2908**, requests a conference and appoints Representatives **Faber, Knox** and **Svaty** as conferees on the part of the House.

The House noncurs in Senate amendments to **Senate Substitute for HB 2916**, requests a conference and appoints Representatives **George, Tafanelli** and **Hawk** as conferees on the part of the House.

The House noncurs in Senate amendments to **Senate Substitute for HB 2923**, requests a conference and appoints Representatives **Myers, Goico** and **Ruff** as conferees on the part of the House.

The House announces the appointment of Representative **Burgess** to replace Representative Dahl as a conferee on **HB 2217**.

The House announces the appointment of Representative **Burgess** to replace Representative Dahl as a conferee on **HB 2280**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

SB 477, An act relating to offender registration; amending K.S.A. 22-4902 and repealing the existing section.

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

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

Present and Passing: Francisco.

The Senate concurred.

SB 512, An act concerning emergency medical services; relating to attendant's certificate requirements; amending K.S.A. 65-6112 and 65-6129 and repealing the existing sections.

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

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

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 46** and requested a conference committee be appointed.

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

On motion of Senator Huelskamp the Senate nonconcurred in the House amendments to **H Sub for HB 169** and requested a conference committee be appointed.

The President appointed Senators Huelskamp, Reitz and Betts as a conference committee on the part of the Senate.

On motion of Senator Umbarger the Senate nonconcurred in the House amendments to **H Sub 309** and requested a conference committee be appointed.

The President appointed Senators Umbarger, Emler and Kelly as a conference committee on the part of the Senate.

On motion of Senator Brungardt the Senate nonconcurred in the House amendments to **H Sub 329** and requested a conference committee be appointed.

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

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **H Sub 379** and requested a conference committee be appointed.

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

On motion of Senator Brownlee the Senate nonconcurred in the House amendments to **Sub SB 453** and requested a conference committee be appointed.

The President appointed Senators Brownlee, Jordan and Barone as a conference committee on the part of the Senate.

On motion of Senator Barnett the Senate nonconcurred in the House amendments to **Sub 491** and requested a conference committee be appointed.

The President appointed Senators Barnett, V. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Huelskamp the Senate nonconcurred in the House amendments to **SB 562** and requested a conference committee be appointed.

The President appointed Senators Huelskamp, Reitz and Betts as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 565** and requested a conference committee be appointed.

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

ORIGINAL MOTION

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **S Sub for HB 2119**.

The President appointed Senators Donovan, Wilson and Gilstrap as conferees on the part of the Senate.

On motion of Senator Huelskamp, the Senate acceded to the request of the House for a conference on **HB 2307**.

The President appointed Senators Huelskamp, Reitz and Betts as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2617**.

The President appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2727**.

The President appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

On motion of Senator Brungardt, the Senate acceded to the request of the House for a conference on **HB 2746**.

The President appointed Senators Brungardt, Reitz and Gilstrap as conferees on the part of the Senate.

On motion of Senator Brungardt, the Senate acceded to the request of the House for a conference on **HB 2772**.

The President appointed Senators Brungardt, Reitz and Gilstrap as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2845**.

The President appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **HB 2858**.

The President appointed Senators Umbarger, Emler and Kelly as conferees on the part of the Senate.

On motion of Senator Brungardt, the Senate acceded to the request of the House for a conference on **HB 2908**.

The President appointed Senators Brungardt, Reitz and Gilstrap as conferees on the part of the Senate.

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **S Sub for HB 2916**.

The President appointed Senators Umbarger, Emler and Kelly as conferees on the part of the Senate.

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **S Sub for HB 2923**.

The President appointed Senators Umbarger, Emler and Kelly as conferees on the part of the Senate.

REPORT ON ENROLLED BILLS

Sub SB 209, SB 443, SB 448, SB 450, SB 472, SB 523 reported correctly enrolled, properly signed and presented to the Governor on March 28, 2008.

SR 1832, SR 1837, SR 1838, SR 1839, SR 1840, SR 1841, SR 1842, SR 1844 reported correctly enrolled properly signed and presented to the Secretary of the Senate on March 28, 2008.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority. **SB 591, SB 637, SB 689, SB 696, SR 1846, S Sub HB 2097, S Sub HB 2207, S Sub HB 2110, S Sub HB 2210, HB 2343, Sub HB 2625, S Sub HB 2634, HB 2672, HB 2683, HB 2689, HB 2704, HB 2721, HB 2771, HB 2897** were advanced to Final Action and roll call.

SB 591, An act concerning driver's licenses; relating to restrictions for certain persons; amending K.S.A. 2007 Supp. 8-2110 and repealing the existing section.

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

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

The bill passed, as amended.

SB 637, An act concerning the Kansas uninsurable health insurance plan act; increasing the lifetime maximum benefit; amending K.S.A. 2007 Supp. 40-2124 and repealing the existing section.

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

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

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

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Huelskamp, Lee, Ostmeyer, Pyle, Wagle.
The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "AYE" on **SB 689** and salute the former Senator from Saline, Ben Vidrickson, who championed this cause of sweeping all of those "slow caribou" out of the left (or "passing") lane of our highways relentlessly. It has been said that nothing around here at the Capitol ever dies. The passage of **SB 689** is a testament to endurance and the perseverance of an idea whose time, it appears in Kansas, has finally come! Congratulations, Ben! — DAVID HALEY

SB 696, An act designating the Salina area technical school as the Salina area technical college.

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

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

SR 1846, A resolution calling upon the members of the Board of Healing Arts to promptly make changes in personnel as necessary to ensure that the board effectively fulfills its statutory duties and to restore public confidence in the board's operations and activities.

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

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

The resolution was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: Late in the hearings in Senate Health Strategies, the *true* board of healing arts appeared with Dr. Mark Malone and other citizen members. At that time, the course of committee action became apparent. Interestingly, the physician members were highly complimentary of the input from non-physician members and the citizen members felt the physicians were the most harsh on their own colleagues. Health care providers granted a great deal of respect and trust that is earned, but not guaranteed. That trust has been fractured, but can be restored by the Board of Healing Arts and response to **Senate Resolution 1846**. — JIM BARNETT

Senators Gilstrap, Journey, Kelly, Lynn, and Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Barnett on **SR 1846**.

S Sub for HB 2097, An act concerning vaccinations; relating to educational awareness of infectious disease vaccines and school-based influenza vaccination pilot program study.

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

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

The substitute bill passed.

S Sub for HB 2110, An act concerning viatical settlements; pertaining to stranger-originated life insurance; amending K.S.A. 2007 Supp. 40-5001, 40-5002, 40-5006, 40-5008 and 40-5010 and repealing the existing sections; also repealing K.S.A. 2007 Supp. 40-5007, 40-5009 and 40-5012.

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

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

Nays: Huelskamp.

The substitute bill passed.

Sub HB 2207, An act concerning emergency proceedings under the Kansas administrative procedure act; relating to nonresident pharmacists and contact lens dispensers through the mail authorizing emergency proceedings against permits and registrations; amending K.S.A. 65-1657 and 65-4967 and K.S.A. 2007 Supp. 65-1627 and repealing the existing sections.

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

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

The substitute bill passed, as amended.

S Sub for HB 2210, An act concerning the Republican 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.

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

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

The substitute bill passed.

HB 2343, An act concerning education; relating to institutions of higher education; amending K.S.A. 76-755 and K.S.A. 2007 Supp. 72-4479, 76-715a, 76-774, 76-775, 76-776, 76-7,105, 76-7,117, 76-7,120 and 79-32,261 and repealing the existing sections; also repealing K.S.A. 2007 Supp. 76-715b.

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

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

The bill passed, as amended.

Sub HB 2625, An act concerning intensive groundwater use control areas; relating to hearings; establishing advisory panels; amending K.S.A. 82a-928, 82a-1036 and 82a-1040 and K.S.A. 2007 Supp. 82a-1038 and repealing the existing sections.

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

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

The substitute bill passed, as amended.

S Sub for HB 2634, An act concerning the environment; relating to non-fuel flammable or combustible liquid aboveground storage tanks; duties of state fire marshal; civil penalties; creating the non-fuel flammable or combustible liquid aboveground storage tank system fund.

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

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

The substitute bill passed.

HB 2672, An act concerning the Kansas health policy authority; amending K.S.A. 38-2006, 39-968, and 65-435a and repealing the existing sections; also repealing K.S.A. 46-2507.

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

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

The bill passed, as amended.

HB 2683, An act concerning elections; pertaining to vacancy in the office of United States representative; pertaining to vacancy in the position of United States senator; pertaining to vacancy in the office of state treasurer; pertaining to the presidential primary; amending K.S.A. 25-101b, 25-318, 25-3501, 25-4502 and 25-4503 and K.S.A. 2007 Supp. 25-4501 and repealing the existing sections.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, 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.

Nays: Francisco.

The bill passed, as amended.

HB 2689, An act concerning insurance; establishing the property/casualty flex-rating regulatory improvement act; pertaining to personal lines insurance written on risks in this state by any insurer authorized to do business in this state; pertaining to risk-based capital requirements; amending K.S.A. 2007 Supp. 40-2c01 and repealing the existing section.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 1, Absent or Not Voting 0.

Yeas: Apple, Barnett, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, 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.

Nays: Allen, Barone, Wysong.

Present and Passing: Francisco.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. CHAIRMAN — I support the provisions of the underlying bill, **HB 2689**, as well as the provisions of **SB 560**, enacting the Property/Casualty Flex-Rating Regulatory Improvement ACT (the Act), in the form of **SB 560** left the Senate. The original **SB 560** specified a rate filing under the Act could increase or decrease no more than 12%. However, the Senate Committee of the Whole amended **SB 560** to revise the rating band to specify the rate could increase no more than 12% but could decrease in any amount. My “no” vote today reflects my disagreement with the version of **SB 560** contained in **HB 2689** as amended, which limits an overall statewide rate *decrease* in a rate filing made by an insurer under this Act to no more than 12%. — BARBARA P. ALLEN

Senator David Wysong requested requests the record to show he concurs with the “Explanation of Vote” offered by Senator Allen **HB 2689**.

HB 2704, An act relating to motor vehicles; providing for an In God We Trust license plate.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, 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.

Nays: Emler.

The bill passed.

HB 2721, An act concerning the board of cosmetology; relating to licensing requirements; amending K.S.A. 65-1901, 65-1903, 65-1904b, 65-1905, 65-1906, 65-1908, 65-1909, 65-1912, 65-1926, 65-1940, 65-1941, 65-1942, 65-1943, 65-1944, 65-1945, 65-1946, 65-1947, 65-1948, 65-1949, 65-1950, 65-1953 and 65-1954 and K.S.A. 2007 Supp. 65-1902 and repealing the existing sections.

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

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

The bill passed, as amended.

HB 2771, An act concerning employment; amending K.S.A. 44-1112 and 44-1118 and K.S.A. 2007 Supp. 44-710 and 44-717 and repealing the existing sections.

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

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

The bill passed, as amended.

HB 2897, An act concerning grain commodity commissions; amending K.S.A. 2-3005 and K.S.A. 2007 Supp. 2-3002, 2-3003 and 2-3007 and repealing the existing sections.

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

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

The bill passed, as amended.

MARCH 28, 2008

1691

On motion of Senator D. Schmidt the Senate adjourned until 9:00 a.m., Monday, March 31, 2008.

HELEN MORELAND, CHARLENE BAILEY, PAT MATZEK, *Journal Clerks*.
PAT SAVILLE, *Secretary of the Senate*.

