

# Journal of the Senate

FORTY-FIRST DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, March 10, 2010—2:30 p.m.

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

Heavenly Father,

They call me “public servant”,  
And that’s what I want to be.  
But I find myself still asking,  
“What does it do for me?”

It’s true I serve the people,  
But the reasons aren’t all clear.  
Is it because I care for them  
Or to further my career?

When my picture’s in the paper  
Where every one can see;  
Am I glad for what I’ve done for them  
Or for what it does for me?

Keep my motives pure, O God;  
A public servant let me be.  
For if I’m busy serving others,  
You’ll take care of me!

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 570**, An act concerning lodging inspections; relating to lodging inspection fees; amending K.S.A. 2009 Supp. 36-502, 36-518 and 74-591 and repealing the existing sections; also repealing K.S.A. 2009 Supp. 36-512, by Committee on Ways and Means.

**SB 571**, An act concerning the animal health department; relating to fees; amending K.S.A. 47-1001e and K.S.A. 2009 Supp. 47-1011, 47-1503 and 47-2101 and repealing the existing sections, by Committee on Ways and Means.

**SB 572**, An act concerning distribution of certain publications; amending K.S.A. 2009 Supp. 45-116, 77-138 and 77-165 and repealing the existing sections, by Committee on Ways and Means.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 567, SB 569.**  
 Ways and Means: **SB 568.**

**MESSAGE FROM THE HOUSE**

Announcing passage of **Substitute HB 2345; HB 2560, HB 2678, HB 2704.**  
 Also, passage of **SB 398, SB 489.**  
 The House concurs in Senate amendments to **HB 2676.**

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**Substitute HB 2345; HB 2560, HB 2678, HB 2704** were thereupon introduced and read by title.

**CONFIRMATION OF APPOINTMENTS**

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

Senator D. Schmidt moved the following appointments be confirmed as recommended by the Standing Senate Committees:

*By the Governor:*

On the appointment to the:

*Kansas Development Finance Authority:*

Audrey Langworthy, term expires January 15, 2013.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*Kansas Parole Board:*

Patricia Ann Biggs, term expires January 15, 2014.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*Kansas Technology Enterprise Corporation:*

Steven F. Warren, term expires January 15, 2014.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*Public Employees Relations Board:*

Keith A. Lawing, term expires March 15, 2013.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*Secretary of Commerce:*

William R. Thornton, serves at the pleasure of the Governor.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*State Board of Indigents' Defense Services:*

Lawrence P. Daniels, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*State Corporation Commission:*

Ward E. Loyd, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*State Corporation Commission:*

Thomas Wright, term expires March 15, 2014.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*University of Kansas Hospital Authority:*

Mark R. Jorgenson, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kel-

sey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*University of Kansas Hospital Authority:*

Deryl Wynn, term expires March 15, 2013.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

#### **FINAL ACTION ON CONSENT CALENDAR**

**HB 2364, HB 2492, HB 2609** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

**HB 2364**, An act concerning court procedure; time limitations for filing; amending K.S.A. 23-106, 23-9,307, 59-2947, 59-3052, 59-3073, 60-703, 60-906, 60-1503 and 61-3803 and K.S.A. 2009 Supp. 38-2229, 38-2232, 38-2242, 38-2243, 38-2260, 38-2343, 38-2361, 38-2366 and 60-206 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed.

**HB 2492**, An act relating to insurance; concerning motor vehicle liability insurance coverage; amending K.S.A. 2009 Supp. 40-3104 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed.

**HB 2609**, An act relating to banks and banking; concerning general powers; amending K.S.A. 2009 Supp. 9-1101 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed.

**REMOVE FROM CONSENT CALENDAR**

An objection having been made to **HB 2649** appearing on the Consent Calendar, the President directed the bill be removed and placed on the calendar under the heading of General Orders.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**SB 454**, An act concerning alcoholic beverages; relating to license fees, term of license and eligibility; amending K.S.A. 41-326, 41-2601, 41-2605, 41-2607 and 41-2629 and K.S.A. 2009 Supp. 41-308a, 41-310, 41-311, 41-317, 41-350, 41-2606, 41-2622 and 41-2623 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Lynn.

The bill passed, as amended.

**SB 559**, An act concerning the Kansas taxpayer transparency act; amending K.S.A. 2009 Supp. 74-72,123 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed.

**HB 2415**, An act concerning the state surplus property act; relating to state educational institutions; amending K.S.A. 2009 Supp. 75-6606 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed, as amended.

**HB 2418**, An act concerning the carbon dioxide reduction act; pertaining to liability of the state of Kansas; pertaining to rules and regulations; amending K.S.A. 2009 Supp. 55-1636 and 55-1637 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed, as amended.

**HB 2433**, An act concerning state agencies; relating to the acquisition and disposal of certain property; relating to the acquisition of certain services; amending K.S.A. 2009 Supp. 75-5275 and 76-769 and repealing the existing section; also repealing K.S.A. 76-392, 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Schmidt D.

The bill passed.

**HB 2445**, An act concerning land use; relating to military installations and adjacent areas, 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed.

**HB 2555**, An act designating part of K-14 highway, United State highway 160 and K-2 highway as the SFC David R. Berry/SGT WillSun M. Mock memorial highway, 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed.

#### INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Huelskamp introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1841—

A RESOLUTION urging the Kansas Congressional Delegation to oppose legislation that disenfranchises workers by removing their right to a private ballot union election.

WHEREAS, The right to a private, secret ballot when voting on external representation is fundamentally inherent in our representative Republic and shall not be infringed upon; and

WHEREAS, Passing the Employee Free Choice Act (EFCA; H.R. 800/S. 1041 as introduced in the 110th Congress) will replace a federally supervised private ballot election with a system that facilitates coercion and intimidation, known as “card check”, whereby employees publically sign cards to vote for unionization; and

WHEREAS, 79% of the American people support a worker’s right to a federally supervised secret ballot election when deciding whether or not to join a union; and

WHEREAS, Agreement in opposition to the EFCA is overwhelming; with 77% of Republicans, 82% of Democrats and 79% of independents believing in protecting private ballots; and

WHEREAS, In July 2002, before a United States House of Representatives subcommittee, a union employee testified that those who would not vote for a union in a public “card check” program were threatened with termination, deportation and loss of 401(k) and health benefits; and

WHEREAS, Chairman of the United States House of Representatives Education and Labor Committee, Representative Miller (D-CA), a staunch supporter of the American “card check” bill, sent a letter to Mexican government officials which stated, “...we feel that

the private ballot is absolutely necessary in order to ensure workers are not intimidated into voting for a union they may otherwise not choose.”; and

WHEREAS, The Employee Free Choice Act’s mandatory binding arbitration provisions deny workers the right to participate in the collective bargaining process between employees and the union: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we find so-called “card check” legislation such as the Employee Free Choice Act to be detrimental to the rights of workers and an offence against democratic principles and that we urge all the members of the Kansas Congressional Delegation to support worker freedom by opposing the EFCA and any of its components in 2010 and in future years; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to each member of the Kansas Congressional Delegation.

#### REPORT ON ENGROSSED BILLS

**SB 454** reported correctly engrossed March 10, 2010.

#### REPORT ON ENROLLED BILLS

**SR 1833, SR 1834, SR 1835, SR 1836, SR 1837, SR 1838, SR 1839, SR 1840** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 10, 2010.

#### REPORTS OF STANDING COMMITTEES

Committee on **Local Government** recommends **HB 2472**, as amended by House Committee, be amended on page 2, following line 1, by inserting:

“(e) “Common elements” means those portions of the property not owned individually by unit owners, but in which an indivisible interest is held by all unit owners, generally including the grounds, parking areas and recreational facilities.”;

And by relettering the remaining subsections accordingly;

On page 4, in line 9, after “rules” by inserting “, covenants or declarations of restrictions.”; in line 17, before the semicolon, by inserting “except involving issues of assessments and fees”;

On page 5, in line 17, by striking all after “declarant”; by striking all of line 18; in line 19, by striking all before “and” and inserting “and officers”; in line 40, after “10.” by inserting “(a) The declarations shall establish when the period of declarant control is terminated.”; also in line 40, by striking “(a)” and inserting “(b)”;

On page 6, in line 17, by striking “(b)” and inserting “(c)”;

On page 7, in line 33, by striking “During” and inserting “Except as provided in subsection (i), during”; in line 34, by striking “four” and inserting “two”; in line 37, by striking all after “year” and inserting “and such”;

On page 9, in line 17, before “by” by inserting “by secret ballot.”;

On page 10, in line 15, after “person” by inserting “, other than a member of the board of directors”;

On page 15, by striking all in lines 3 through 9; in line 10, by striking “(c)” and inserting “(b)”;

And by renumbering the remaining subsections accordingly; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2485** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

**HB 2482**, as amended by House Committee, be amended on page 1, following line 14, by inserting the following:

“Section 1. K.S.A. 2009 Supp. 8-234a is hereby amended to read as follows: 8-234a. (a) As used in the motor vehicle drivers’ license act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(1) “Drivers’ license examiner” or “examiner” means a drivers’ license examiner of the division of vehicles or any person whom the director of vehicles has authorized, pursuant

to the authority granted by this act, to accept applications for drivers' licenses and administer the examinations required for the issuance or renewal of drivers' licenses. Any county treasurer authorized to accept applications for drivers' licenses or administer drivers' license examinations shall be deemed to be acting as an agent of the state of Kansas;

(2) "nonresident" means every person who is not a resident of this state. For the purposes of the motor vehicle drivers' license act any person who owns, rents or leases real estate in Kansas as such person's residence and engages in a trade, business or profession within Kansas or registers to vote in Kansas or enrolls such person's children in a school in this state or purchases Kansas registration for a motor vehicle, shall be deemed a resident of the state of Kansas 90 days after the conditions stated in this subsection commence, except that military personnel on active duty and their military dependents who are residents of another state, shall not be considered residents of the state of Kansas for the purpose of this act;

(3) "patrol" means the state highway patrol;

(4) "address of principal residence" means: (A) The place where a person makes his or her permanent principal home; (B) place where a person resides, has an intention to remain and where they intend to return following an absence; or (C) place of habitation to which, whenever the person is absent, the person intends to return. If a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person's address of principal residence;

(5) "state" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of Northern Mariana Islands; ~~and~~

(6) "wireless communication device" means any wireless electronic communication device that provides for voice or data communication between two or more parties, including, but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages, an audio-video player that sends or receives messages or a laptop computer; *and*

(7) "*religious organization*" means any organization, church, body of communicants, or group, gathered in common membership for mutual support and edification in piety, worship and religious observances, or a society of individuals united for religious purposes at a definite place and which religious organization maintains an established place of worship within this state and has a regular schedule of services or meetings at least on a weekly basis and has been determined to be organized and created as a bona fide religious organization.

(b) As used in this act, the words and phrases defined by the sections in article 14 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall have the meanings respectively ascribed to them therein, unless a different meaning is ascribed to any such word or phrase by subsection (a) of this section.

Sec. 2. K.S.A. 2009 Supp. 8-237 is hereby amended to read as follows: 8-237. The division of vehicles shall not issue any driver's license to any person:

(a) Who is under the age of 17 years, except that the division may issue a restricted class C or M license, as provided in K.S.A. 2009 Supp. 8-2,101, and amendments thereto, or a farm permit, under K.S.A. 8-296, and amendments thereto.

(b) Who is under the age of 18 years, except as provided in K.S.A. 8-2,147, and amendments thereto, for the purpose of driving a commercial or class A or B motor vehicle.

(c) Whose license is currently revoked, suspended or canceled in this or any other state, except as provided in K.S.A. 8-256, and amendments thereto.

(d) Who is a habitual drunkard, habitual user of narcotic drugs or habitual user of any other drug to a degree which renders the user incapable of safely driving a motor vehicle.

(e) Who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of making application for a driver's license, has not been restored to capacity in the manner provided by law. Application of this limitation to any person known to have suffered any seizure disorder is subject to the provisions of ~~paragraph (7) of subsection (e)~~ of K.S.A. 8-247, and amendments thereto.

(f) Who is required by the motor vehicle drivers' license act to take an examination, unless the person has successfully passed the examination.

(g) Who is at least 16 years of age and less than 17 years of age, who is applying for a driver's license for the first time since reaching 16 years of age and who, three times or



more, has been adjudged to be a traffic offender under the Kansas juvenile code or a juvenile offender under the revised Kansas juvenile justice code, by reason of violation of one or more statutes regulating the movement of traffic on the roads, streets or highways of this state, except that, in the discretion of the director, the person may be issued a driver's license which is restricted in the manner the division deems to be appropriate. No person described by this subsection shall be eligible to receive a driver's license which is not restricted until the person has reached the age of 17 years.

(h) Who has not submitted proof of age or proof of identity, as required by K.S.A. 8-240, and amendments thereto.

(i) Whose presence in the United States is in violation of federal immigration laws.”;

Also on page 1, in line 15, by striking “Section” and inserting “Sec.”;

On page 3, in line 28, by striking “written”; in line 29, by striking all preceding “sufficient” and inserting “eyesight examination or report is”; in line 30, by striking “either or both of the examinations are” and inserting “the eyesight examination or report is”; in line 39, by striking all following the period; by striking all in lines 40 through 42;

On page 5, in line 7, by striking “written”;

On page 6, by striking all in line 3 and inserting the following:

“Sec. 4. K.S.A. 2009 Supp. 8-296 is hereby amended to read as follows: 8-296. (a) Any person who is less than 17 years of age but is at least 14 years of age and who resides upon a farm in this state or is employed for compensation upon a farm in this state may apply to the division of vehicles for a farm permit authorizing such person, while possessing the permit, to operate any motor vehicle in class C, as designated in K.S.A. 8-234b, and amendments thereto.

(b) (1) A farm permit shall entitle the licensee, who is at least 14 years of age, but less than 16 years of age, to operate the appropriate motor vehicles at any time:

(A) While going to or from or in connection with any farm job, employment or other farm-related work;

(B) on days while school is in session, over the most direct and accessible route between the licensee's residence and school of enrollment for the purpose of school attendance; or

(C) when the licensee is operating a passenger car at any time when accompanied by an adult who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver.

(2) For a period of six months, a farm permit shall entitle the licensee who is at least 16 years of age to operate the appropriate motor vehicles at any time:

(A) From 5:00 a.m. to 9:00 p.m.;

(B) while going to or from or in connection with any farm job, employment or other farm-related work; or

(C) while going to or from authorized school activities;

(D) *while going directly to or from any religious service or function held by a religious organization; or*

~~(D)~~ (E) when the licensee is operating a passenger car at any time when accompanied by an adult who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver.

After such six-month period, if the licensee has complied with the provisions of this section, such farm permit shall entitle the licensee to operate the appropriate motor vehicles at any time without the restrictions required by this section.

(c) A farm permit shall be issued only if:

(1) The applicant can prove that such applicant resides or works on a farm;

(2) the applicant has successfully completed the examination requirements in K.S.A. 8-235d, and amendments thereto; and

(3) the applicant submits the signed affidavit of either a parent or guardian, stating that the applicant lives on a farm or, if the applicant does not live on a farm but works on a farm, the applicant submits the signed affidavit of the applicant's employer and parent or guardian, attesting to such employment.

(d) Any licensee issued a farm permit under this section:

(1) Who is less than 16 years of age shall not operate any motor vehicle with nonsibling minor passengers; or

(2) who is at least 16 years of age, for a period of six months after reaching 16 years of age, shall not operate any motor vehicle with more than one passenger who is less than 18 years of age and who is not a member of the licensee's immediate family.

Any conviction for violating this subsection shall be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.

(e) Any licensee issued a farm permit under this section shall not operate a wireless communication device while driving a motor vehicle, except that a licensee may operate a wireless communication device while driving a motor vehicle to report illegal activity or to summons medical or other emergency help.

(f) As used in this section, "farm" means any parcel of land larger than 20 acres which is used in agricultural operations.

(g) (1) A farm permit issued under this section is subject to suspension or revocation in the same manner as any other driver's license.

(2) A farm permit shall be suspended in accordance with K.S.A. 8-291, and amendments thereto, for any violation of restrictions under this section.

(3) The division shall suspend the farm permit upon receiving satisfactory evidence that the licensee has been involved in two or more accidents chargeable to the licensee and such suspended license shall not be reinstated for one year.

(h) Any licensee issued a farm permit under this section shall provide prior to reaching 16 years of age, a signed affidavit of either a parent or guardian, stating that the applicant has completed at least 50 hours of adult supervised driving with at least 10 of those hours being at night. The adult supervised driving required by this paragraph shall be conducted by an adult who is at least 21 years of age and is the holder of a valid commercial driver's license, class A, B or C driver's license.

Evidence of failure of any licensee who was required to complete the 50 hours of adult supervised driving under this subsection shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(i) Any licensee issued a farm permit under this section who: (1) Is under the age of 16 years and is convicted of two or more moving traffic violations committed on separate occasions shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of subsection (b)(1), until the person reaches 17 years of age; (2) is at least 16 years of age, but less than 17 years of age and is convicted of two or more moving traffic violations committed on separate occasions shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of subsection (b)(2), until the person reaches 18 years of age; or (3) fails to provide the affidavit required under subsection (h), shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of subsection (b)(1), until the person provides such affidavit to the division or the person reaches 17 years of age, whichever occurs first.

Sec. 5. K.S.A. 2009 Supp. 8-2,100 is hereby amended to read as follows: 8-2,100. (a) Any person who is at least 14 years of age, but less than 17 years of age may apply to the division for an instruction permit. The division may issue an instruction permit under this section to any person who is at least 14 years of age, but less than 16 years of age only upon written application of a parent or guardian of the minor. The division may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit for a period of one year.

(b) An instruction permit issued under this subsection shall authorize the permit holder to drive a passenger car under the following conditions:

(1) The permit holder shall be in immediate possession of the instruction permit;

(2) a supervising driver shall be seated beside the permit holder in the front seat of the passenger car when such car is in motion. The supervising driver shall be an adult who is at least 21 years of age who is the holder of a valid commercial driver's license, class A, B or C driver's license and who has at least one year of driving experience. No person other than the supervising driver can be in the front seat;

(3) the permit holder may drive at any time in accordance with the provisions of this section;

(4) the permit holder shall not operate a wireless communication device while driving a passenger car, except that a permit holder may operate a wireless communications device

while driving a passenger car to report illegal activity or to summons medical or other emergency help.

(c) Any person who is at least 14 years of age, but less than 17 years of age may apply for an instruction permit to operate a motorcycle either separate from or in conjunction with an instruction permit to operate a passenger car. The applicant shall successfully pass all parts of the examination other than the driving test. An instruction permit issued under this subsection shall authorize the permit holder to operate a motorcycle if such permit holder is accompanied by an adult who is at least 21 years of age, who is the holder of a valid class M driver's license, who has had at least one year of driving experience and who is *either riding a motorcycle in the general proximity of the permit holder or is riding as a passenger on the motorcycle being operated by the permit holder.*

(d) An instruction permit issued under this section is subject to suspension or revocation in the same manner as any other driver's license. An instruction permit shall be suspended in accordance with K.S.A. 8-291, and amendments thereto, for any violation of restrictions under this section.

(e) This section shall be a part of and supplemental to the motor vehicle driver's license act.

Sec. 6. K.S.A. 2009 Supp. 8-2,101 is hereby amended to read as follows: 8-2,101. The division of vehicles may issue a restricted class C or M driver's license in accordance with the provisions of this section. A restricted class C license issued under this section shall entitle the licensee, while possessing the license, to operate any motor vehicle in class C, as designated in K.S.A. 8-234b, and amendments thereto. A restricted class M license shall entitle the licensee, while possessing such license, to operate a motorcycle.

(a) The division may issue a restricted class C or M driver's license to any person who:

- (1) Is at least 15 years of age;
- (2) has successfully completed an approved course in driver training;
- (3) has held an instructional permit issued under the provisions of K.S.A. 8-239, and amendments thereto, for a period of at least one year and has completed at least 25 hours of adult supervised driving; and
- (4) upon the written application of the person's parent or guardian, which shall be submitted to the division.

Any licensee issued a restricted license under this subsection, shall provide prior to reaching 16 years of age, a signed affidavit of either a parent or guardian, stating that the applicant has completed the required 25 hours prior to being issued a restricted license and 25 hours of additional adult supervised driving. Of the 50 hours required by this subsection, at least 10 of those hours shall be at night. The adult supervised driving shall be conducted by an adult who is at least 21 years of age and is the holder of a valid commercial driver's license, class A, B or C driver's license.

(b) (1) A restricted license issued under subsection (a) shall entitle a licensee who is at least 15 years of age but less than 16 years of age, to operate the appropriate motor vehicles at any time:

(A) While going to or from or in connection with any job, employment or farm-related work;

(B) on days while school is in session, over the most direct and accessible route between the licensee's residence and school of enrollment for the purposes of school attendance;

(C) when the licensee is operating a passenger car, at any time when accompanied by an adult, who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver; or

(D) when the licensee is operating a motorcycle, at any time when accompanied by an adult, who is the holder of a valid class M driver's license and who is *either operating a motorcycle in the general proximity of the licensee or is riding as a passenger on the motorcycle being operated by the licensee.*

(2) For a period of six months, a restricted license issued under subsection (a) shall entitle a licensee who is at least 16 years of age to operate the appropriate motor vehicles at any time:

- (A) From 5:00 a.m. to 9:00 p.m.;

(B) while going to or from or in connection with any job, employment or farm-related work;

(C) while going to or from authorized school activities;

(D) *while going directly to or from any religious service or function held by a religious organization;*

~~(E)~~ (E) when the licensee is operating a passenger car, at any time when accompanied by an adult, who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver; or

~~(F)~~ (F) when the licensee is operating a motorcycle, at any time when accompanied by an adult, who is the holder of a valid class M driver's license and who is *either* operating a motorcycle in the general proximity of the licensee *or is riding as a passenger on the motorcycle being operated by the licensee.*

After such six-month period, if the licensee has complied with the provisions of this section, such restricted license shall entitle the licensee to operate the appropriate motor vehicles at any time without any of the restrictions required by this section.

(c) (1) The division may issue a restricted class C or M driver's license to any person who is under 17 years of age but at least 16 years of age, who:

(A) Has held an instructional permit issued under the provisions of K.S.A. 8-239, and amendments thereto, for a period of at least one year; and

(B) has submitted a signed affidavit of either a parent or guardian, stating that the applicant has completed at least 50 hours of adult supervised driving with at least 10 of those hours being at night. The required adult supervised driving shall be conducted by an adult who is at least 21 years of age and is the holder of a valid commercial driver's license, class A, B or C driver's license.

(2) For a period of six months, a restricted license issued under subsection (c)(1) shall entitle a licensee to operate the appropriate motor vehicles at any time:

(A) From 5:00 a.m. to 9:00 p.m.;

(B) while going to or from or in connection with any job, employment or farm-related work;

(C) while going to or from authorized school activities;

(D) *while going directly to or from any religious service or function held by a religious organization;*

~~(E)~~ (E) when the licensee is operating a passenger car, at any time when accompanied by an adult, who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver; or

~~(F)~~ (F) when the licensee is operating a motorcycle, at any time when accompanied by an adult, who is the holder of a valid class M driver's license and who is *either* operating a motorcycle in the general proximity of the licensee *or is riding as a passenger on the motorcycle being operated by the licensee.*

After such six-month period, if the licensee has complied with the provisions of this section, such restricted license shall entitle the licensee to operate the appropriate motor vehicles at any time without any of the restrictions required by this section.

(d) (1) Any licensee issued a restricted license under subsection (a):

(A) Who is less than 16 years of age shall not operate any motor vehicle with nonsibling minor passengers; or

(B) who is at least 16 years of age, for a period of six months after reaching 16 years of age, shall not operate any motor vehicle with more than one passenger who is less than 18 years of age and who is not a member of the licensee's immediate family.

(2) Any licensee issued a restricted license under subsection (c), for a period of six months after such restricted license is issued, shall not operate any motor vehicle with more than one passenger who is less than 18 years of age and who is not a member of the licensee's immediate family.

(3) Any conviction for violating this subsection shall be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.

(e) Any licensee issued a restricted license under this section shall not operate a wireless communication device while driving a motor vehicle, except that a licensee may operate a

wireless communication device while driving a motor vehicle to report illegal activity or to summons medical or other emergency help.

(f) (1) A restricted driver's license issued under this section is subject to suspension or revocation in the same manner as any other driver's license.

(2) A restricted driver's license shall be suspended in accordance with K.S.A. 8-291, and amendments thereto, for any violation of restrictions under this section.

(3) The division shall suspend the restricted driver's license upon receiving satisfactory evidence that the licensee has been involved in two or more accidents chargeable to the licensee and such suspended license shall not be reinstated for one year.

(g) Evidence of failure of any licensee who was required to complete the 50 hours of adult supervised driving under this section shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(h) Any licensee issued a restricted license under:

(1) Subsection (a) who:

(A) Is under the age of 16 years and is convicted of two or more moving traffic violations committed on separate occasions shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of subsection (b)(1) until the person reaches 17 years of age;

(B) is under 17 years of age but at least 16 years of age and is convicted of two or more moving traffic violations committed on separate occasions shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of subsection (b)(2) until the person reaches 18 years of age; or

(C) fails to provide the affidavit required under subsection (a) shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of subsection (b)(1) until the person provides such affidavit to the division or the person reaches 17 years of age, whichever occurs first.

(2) Subsection (c) who is under the age of 17 years and is convicted of two or more moving traffic violations committed on separate occasions shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of subsection (c) until the person reaches 18 years of age.

(i) This section shall be a part of and supplemental to the motor vehicle driver's license act.

Sec. 7. K.S.A. 2009 Supp. 8-2,150 is hereby amended to read as follows: 8-2,150. (a) A driver or a holder of a commercial driver's license may not enter into a diversion agreement in lieu of further criminal proceedings that would prevent such driver's person's conviction for any violation, in any type of motor vehicle, of a state or local traffic control law, except a parking violation, from appearing on the driver's person's record, whether the driver person was convicted for an offense committed in the state where the driver person is licensed or another state.

(b) For purposes of subsection (a), a person shall be considered a holder of a commercial driver's license if the person was a holder of a commercial driver's license at the time the person was arrested or was issued a citation and shall remain a holder of a commercial driver's license even if the person surrenders the commercial driver's license after the arrest or citation.

~~(c)~~ (c) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.

Sec. 8. K.S.A. 2009 Supp. 8-1325 is hereby amended to read as follows: 8-1325. (a) Every identification card shall expire, unless earlier canceled or subsection (c) of K.S.A. 8-1324, and amendments thereto, applies, on the sixth birthday of the applicant following the date of original issue, except as otherwise provided by K.S.A. 8-1329, and amendments thereto. Renewal of any identification card shall be made for a term of six years and shall expire in a like manner as the originally issued identification card, unless surrendered earlier or subsection (c) of K.S.A. 8-1324, and amendments thereto, applies. For any person who has been issued an identification card, the division shall mail a notice of expiration or renewal at least 30 days prior to the expiration of such person's identification card at the address shown on such identification card. The division shall include with such notice, written information required under subsection (b). Any application for renewal received later than 90

days after expiration of the identification card shall be considered to be an application for an original identification card. The division shall require payment of a fee of \$14 for each identification card renewal, except that persons who are 65 or more years of age or who are persons with a disability, as defined in K.S.A. 8-1,124, and amendments thereto, shall be required to pay a fee of only \$10.

(b) The division shall ~~provide the following information~~ *reference the website of the agency in a person's notice of expiration or renewal* under subsection (a). *The division shall provide the following information on the website of the agency:*

(1) ~~Written~~ Information explaining the person's right to make an anatomical gift in accordance with K.S.A. 8-132S, and amendments thereto, and the revised uniform anatomical gift act, K.S.A. 2009 Supp. 65-3220 through 65-3244, and amendments thereto;

(2) ~~written~~ information describing the organ donation registry program maintained by the Kansas federally designated organ procurement organization. The ~~written~~ information required under this paragraph shall include, in a type, size and format that is conspicuous in relation to the surrounding material, the address and telephone number of Kansas' federally designated organ procurement organization, along with an advisory to call such designated organ procurement organization with questions about the organ donor registry program;

(3) ~~written~~ information giving the applicant the opportunity to be placed on the organ donation registry described in paragraph (2);

(4) inform the applicant ~~in writing~~ that, if the applicant indicates under this subsection a willingness to have such applicant's name placed on the organ donor registry described in paragraph (2), the division will forward the applicant's name, gender, date of birth and most recent address to the organ donation registry maintained by the Kansas federally designated organ procurement organization, as required by paragraph (6);

(5) the division may fulfill the requirements of paragraph (4) by one or more of the following methods:

(A) Providing ~~printed material enclosed with a mailed notice for an identification card renewal such information on the website of the agency; or~~

(B) providing printed material to an applicant who personally applies for an identification card;

(6) if an applicant indicates a willingness under this subsection to have such applicant's name placed on the organ donor registry described, the division shall within 10 days forward the applicant's name, gender, date of birth and address to the organ donor registry maintained by the Kansas federally designated organ procurement organization. The division may forward information under this subsection by mail or by electronic means. The division shall not maintain a record of the name or address of an individual who indicates a willingness to have such person's name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have such applicant's name placed on the organ donor registry that is obtained by the division and forwarded under this paragraph shall be confidential and not disclosed.

Sec. 9. K.S.A. 2009 Supp. 8-234a, 8-237, 8-247, 8-296, 8-2,100, 8-2,101, 8-2,150 and 8-1325 are hereby repealed.;

And by renumbering sections accordingly;

On page 1, in the title, by striking all in lines 10 through 12 and inserting the following: "AN ACT concerning the division of vehicles; relating to drivers' licenses and identification cards; concerning the regulation thereof; amending K.S.A. 2009 Supp. 8-234a, 8-237, 8-247, 8-296, 8-2,100, 8-2,101, 8-2,150 and 8-1325 and repealing the existing sections.;"

And the bill be passed as amended.

#### COMMITTEE OF THE WHOLE

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

On motion of Senator Teichman the following report was adopted:

Recommended **HB 2584** be passed.

MARCH 10, 2010

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**SB 480, SB 523; HB 2652** be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee report on **HB 2437** recommending a **Senate Sub for HB 2437** be adopted, and the substitute bill be passed.

**SB 359** be passed over and retain a place on the calendar.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, March 11, 2010.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

