

Journal of the Senate

THIRTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, February 23, 2005—9:30 a.m.

The Senate was called to order by Vice President John Vratil.
The roll was called with thirty-nine senators present.
Senator Wysong was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

There's a certain quality
Bestowed by Providence
Upon most every one.
We call it "common sense".

Many times it has been proved
By all the evidence
That it accomplished a lot,
This gift called common sense.

Yet it seems we're often guilty, Lord,
Of obvious negligence
By failing to apply
This gift of common sense.

It might be understood, O God,
If it came at some expense,
But there is no fiscal note
On the use of common sense.

Instead we still rely on
Attempts at eloquence,
When all that's really needed
Is a little common sense!

Since every time we use it, Lord,
There's a favorable consequence;
Do what it takes to make us use
Some sanctified common sense!

I call on You in the Name of the Lord Jesus Christ,

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 278. An act relating to the division of vehicles; concerning records thereof; amending K.S.A. 2004 Supp. 74-2012 and repealing the existing section, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **HB 2157**.

Education: **SB 277; HB 2252**.

Elections and Local Government: **HB 2118**.

Federal and State Affairs: **SB 276**.

Judiciary: **HB 2268**.

Public Health and Welfare: **HB 2178, HB 2330, HB 2336**.

Transportation: **HB 2297**.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 13, An act concerning taxation; relating to confidentiality of information; disclosure; amending K.S.A. 79-1119, 79-3392, 79-3614 and 79-4105 and K.S.A. 2004 Supp. 12-189, 75-5133, 79-3234 and 79-3657 and repealing the existing sections; also repealing K.S.A. 2004 Supp. 74-8017, was considered on final action.

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

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

Nays: Huelskamp, Pyle.

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 52, An act concerning employment of retired judges; relating to providing employer contribution for health insurance; amending K.S.A. 20-2622 and repealing the existing section, was considered on final action.

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

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

Nays: Huelskamp.

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 56, An act concerning motor-vehicle fuels; relating to retail pump labeling requirements; ethyl alcohol and other alcohol; amending K.S.A. 2004 Supp. 79-3408 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 29, Nays 10, Present and Passing 0, Absent or Not Voting 1.

Yeas: Allen, Apple, Barone, Betts, Bruce, Brungardt, Donovan, Francisco, Gilstrap, Goodwin, Haley, Huelskamp, Jordan, Kelly, Lee, Morris, Ostmeyer, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson.

Nays: Barnett, Brownlee, Emler, Hensley, Journey, McGinn, O'Connor, Palmer, Petersen, Steineger.

Absent or Not Voting: Wysong.

The bill passed.

SB 63, An act concerning public utilities; relating to the definition thereof, was considered on final action.

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

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

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 71, An act concerning crimes and punishment; creating the crime of automated teller machine robbery; aggravated automated teller machine robbery, was considered on final action.

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

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

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 72, An act concerning crimes and punishment; relating to worthless checks; amending K.S.A. 2004 Supp. 21-3707 and repealing the existing section, was considered on final action.

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

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

Nays: Haley.

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 91, An act concerning the Kansas dental board; fees; regulation of mobile dental facilities and portable dental operations; amending K.S.A. 65-1447 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 4, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Haley, Huelskamp, O'Connor, Pyle.

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 110, An act concerning the Kansas commission on veterans affairs; relating to memorials for Kansas veterans who served in the armed forces of the United States of America; prescribing certain guidelines and procedures; establishing the Kansas veterans memorials fund, was considered on final action.

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

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

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 158, An act concerning property taxation; relating to hay storage structures; amending K.S.A. 2004 Supp. 79-201d and repealing the existing section, was considered on final action.

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

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

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 181, An act concerning civil procedure; relating to actions filed in violation of Article 6 of the Kansas constitution; amending K.S.A. 2004 Supp. 60-2102 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 30, Nays 9, Present and Passing 0, Absent or Not Voting 1.

Yeas: Allen, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Huelskamp, Jordan, Journey, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson.

Nays: Barone, Betts, Francisco, Goodwin, Haley, Hensley, Kelly, Lee, Steineger.

Absent or Not Voting: Wysong.

The bill passed.

SB 195, An act concerning firearms; relating to the disposition thereof after seizure; amending K.S.A. 79-5212 and K.S.A. 2004 Supp. 79-3235, 79-3617, 79-5205 and 79-5211 and repealing the existing sections, was considered on final action.

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

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

Nays: Huelskamp, O'Connor, Ostmeyer, Petersen, Pyle.

Absent or Not Voting: Wysong.

The bill passed.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: For ideological reasons, some states and municipalities have refused to auction off seized firearms, even though federal law limits licensed firearms dealers.

After sales in 1996, 1998, and 2000, our state suddenly refused to follow such auction requirements in state law. I hope the Department follows through with their promise to begin such auctions again this summer.—TIM HUELSKAMP

SB 234, An act concerning motor vehicles and equipment used by the state; relating to fuel purchase therefor; amending K.S.A. 2004 Supp. 75-3744a and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 30, Nays 9, Present and Passing 0, Absent or Not Voting 1.

Yeas: Allen, Apple, Barnett, Barone, Betts, Bruce, Donovan, Francisco, Gilstrap, Goodwin, Haley, Huelskamp, Jordan, Kelly, Lee, McGinn, Morris, Ostmeyer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

Nays: Brownlee, Brungardt, Emler, Hensley, Journey, O'Connor, Palmer, Wagle, Wilson.

Absent or Not Voting: Wysong.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote no on **SB 234**. We need to encourage ethanol use in gasoline. But the provisions of **SB 234** relating to State rental car companies doesn't take effect for two years, until the current contract is renewed. However, we are immediately telling our state employees that they MUST refill with ethanol blend, after we have removed the label on the pump letting them know which gas has ethanol. This makes no sense for our state employees. I vote no.—ANTHONY HENSLEY

Senators Brungardt, Emler, Journey, O'Connor, Palmer and Wilson request the record to show they concur with the Explanation of Vote offered by Senator Hensley on **SB 234**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Reitz, Brungardt and D. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1823—

A RESOLUTION designating February 23 as Rotary Day.

WHEREAS, The Rotary Club of Chicago was founded on February 23, 1905, when Chicago attorney Paul Harris invited three business associates to a meeting to form a club to share “mutual cooperation and informal friendship such as all of us had once known in our villages”; and

WHEREAS, By 1921, Rotary Clubs had been formed on six continents, and the name Rotary International was adopted in 1922; and

WHEREAS, As Rotary International grew, its focus changed from serving the business and professional needs of its members to serving communities in need, as expressed in its motto: “Service Above Self”; and

WHEREAS, The Rotary Foundation, established in 1928, today garners contributions exceeding \$80 million annually to support a range of humanitarian grants and educational programs; and

WHEREAS, In 1985, Rotary International made a commitment to immunize all of the world’s children against polio, and by the centennial of Rotary in 2005, more than \$500 million will have been committed to the eradication of polio; and

WHEREAS, Rotary International consists of 1.2 million members in some 31,000 Rotary Clubs in 166 countries, all committed to addressing such problems as environmental degradation, illiteracy, world hunger and children at risk; Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the body designates February 23 as Rotary Day in honor of the numerous and ongoing contributions of Rotary International to communities throughout the state, across the nation and around the world; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Rotary International, One Rotary Center, 1560 Sherman Avenue, Evanston, IL 60201.

On emergency motion of Senator Reitz **SR 1823** was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on **Elections and Local Government** recommends **SB 34** be amended on page 1, following line 12, by inserting:

“Section 1. K.S.A. 45-217 is hereby amended to read as follows: 45-217. As used in the open records act, unless the context otherwise requires:

(a) “Business day” means any day other than a Saturday, Sunday or day designated as a holiday by the congress of the United States, by the legislature or governor of this state or by the respective political subdivision of this state.

(b) “Criminal investigation records” means records of an investigatory agency or criminal justice agency as defined by K.S.A. 22-4701 and amendments thereto, compiled in the process of preventing, detecting or investigating violations of criminal law, but does not include police blotter entries, court records, rosters of inmates of jails or other correctional or detention facilities or records pertaining to violations of any traffic law other than vehicular homicide as defined by K.S.A. 21-3405 and amendments thereto.

(c) “Custodian” means the official custodian or any person designated by the official custodian to carry out the duties of custodian of this act.

(d) “Official custodian” means any officer or employee of a public agency who is responsible for the maintenance of public records, regardless of whether such records are in the officer’s or employee’s actual personal custody and control.

(e) (1) “Public agency” means the state or any political or taxing subdivision of the state or any office, officer, agency or instrumentality thereof, or any other entity receiving or expending and supported in whole or in part by the public funds appropriated by the state or by public funds of any political or taxing subdivision of the state.

(2) "Public agency" shall not include:

(A) Any entity solely by reason of payment from public funds for property, goods or services of such entity; (B) any municipal judge, judge of the district court, judge of the court of appeals or justice of the supreme court; or (C) any officer or employee of the state or political or taxing subdivision of the state if the state or political or taxing subdivision does not provide the officer or employee with an office which is open to the public at least 35 hours a week.

(f) (1) "Public record" means any recorded information, regardless of form or characteristics, which is made, maintained or kept by or is in the possession of any public agency including, but not limited to, an agreement in settlement of litigation involving the Kansas public employees retirement system and the investment of moneys of the fund.

(2) "Public record" shall not include records which are owned by a private person or entity and are not related to functions, activities, programs or operations funded by public funds or records which are made, maintained or kept by an individual who is a member of the legislature or of the governing body of any political or taxing subdivision of the state.

(3) "Public record" shall not include records of employers related to the employer's individually identifiable contributions made on behalf of employees for workers compensation, social security, unemployment insurance or retirement. The provisions of this subsection shall not apply to records of employers of lump-sum payments for contributions as described in this subsection paid for any group, division or section of an agency.

(g) "Undercover agent" means an employee of a public agency responsible for criminal law enforcement who is engaged in the detection or investigation of violations of criminal law in a capacity where such employee's identity or employment by the public agency is secret.

(h) "*Clearly unwarranted invasion of personal privacy*" means revealing information that would be highly offensive to a reasonable person and is not of legitimate concern to the public.;

Also on page 1, in line 13, by striking "Section 1." and inserting "Sec. 2.;" and by renumbering the remaining sections accordingly;

Also on page 1, in line 30, by striking "All" and inserting "Subject to the provisions of subsection (h), all";

On page 3, in line 17, by striking all following "existence"; in line 18, by striking all preceding the colon and inserting "until July 1, 2006, at which time such exceptions shall expire";

On page 4, in line 2, by striking "45-229 is" and inserting "45-217 and 45-229 are";

In the title, in line 9, following "concerning" by inserting "the Kansas open records act; pertaining to definitions; pertaining to"; in line 10, following "K.S.A." by inserting "45-217 and"; also in line 10, by striking "section" and inserting "sections"; and the bill be passed as amended.

Also, **SB 142** be amended on page 1, in line 37, by striking "upon request of" and inserting "designated in writing by";

On page 3, in line 8, by striking all following the period; by striking all in line 9; in line 10, by striking all preceding the period and inserting "Upon written designation by the voter, a person other than the voter may return the advance voting ballot by personal delivery or mail. Any such person designated by the voter shall sign a statement that such person has not exercised undue influence on the voting decisions of the voter and agrees to deliver the ballot as directed by the voter"; in line 24, following the period, by inserting "If the signatures do not match, the county election officer shall make a reasonable effort to contact the voter and verify the authenticity of the signature.;"

On page 4, in line 3, preceding "such" by inserting "and the county election officer is unable to verify that the voter signed the ballot envelope,;" and the bill be passed as amended.

SB 164 be amended on page 1, following line 12, by inserting the following sections:

"New Section 1. As used in sections 2 through 8, and amendments thereto:

(a) "Commission" means the consolidation commission of Topeka, Kansas, and Shawnee county.

(b) "City" means Topeka, Kansas.

(c) "County" means Shawnee county.

New Sec. 2. (a) Within 10 days of the effective date of this act, a consolidation commission shall be appointed. Each of the following officers shall appoint a member to the commission: The governor, the president and minority leader of the senate and the speaker and minority leader of the house of representatives. The person appointed by the governor shall serve as the chairperson of the commission. No more than three members of the commission shall be from the same political party. Members of the commission shall include, but not be limited to, persons with experience in accounting, business management, municipal finance, law, education, political science or public administration. No elected or appointive official of the cities of Auburn, Rossville, Silver Lake, Topeka or Willard or Shawnee county, nor any person appointed to fill a vacancy in an elected office of such cities or county, shall serve on the commission. No paid employee of the cities of Auburn, Rossville, Silver Lake, Topeka or Willard or Shawnee county shall serve on the commission. Members of the commission shall be residents of Shawnee county.

(b) Members of the commission shall be paid compensation, subsistence allowances, mileage and other expenses as provided by K.S.A. 75-3223, and amendments thereto.

(c) The members of the consolidation commission shall appoint an executive director of the commission. The executive director shall receive compensation established by the commission. The executive director shall employ other staff and may contract with consultants, as the executive director deems necessary to carry out the functions of the commission. Staff employed by the executive director shall receive compensation established by the executive director.

(d) Within 30 days following the appointment of all members of the commission, the commission shall meet and organize by the election of a vice-chairperson and other officers deemed necessary. The commission may adopt rules governing the conduct of its meetings.

New Sec. 3. (a) The commission shall prepare and adopt a plan addressing the consolidation of the city and county or certain city and county offices, functions, services and operations. The commission shall conduct such studies and investigations as it deems appropriate to complete its work. Such studies and investigations shall include, but not be limited to, studies of the costs and benefits of consolidating the city and county or certain city and county offices, functions, services and operations.

(b) The commission shall hold public hearings for the purpose of receiving information and materials which will aid in the drafting of the plan.

(c) Within 180 days following the appointment of all members of the commission, the commission shall prepare and adopt a preliminary plan addressing the consolidation of the city and county or certain city and county offices, functions, services and operations it deems advisable. Copies of the preliminary plan shall be filed with the county election officer, city clerk, each public library within the county and any other place designated by the commission. Copies of such plan shall be available to members of the public for inspection upon request. The commission shall hold at least two public hearings to obtain citizen views concerning the preliminary plan. Notice of such hearings shall be published at least twice in a newspaper of general circulation within the county. Following the public hearings on the preliminary plan, the commission may adopt, or modify and adopt, the preliminary plan as the final plan.

(d) Within 30 days of the last public hearing held on the preliminary plan, the commission shall adopt its final plan. The final plan shall include the full text and an explanation of the proposed plan, and comments deemed desirable by the commission, a written opinion by an attorney admitted to practice law in the state of Kansas and retained by the executive director for such purpose that the proposed plan is not in conflict with the constitution or the laws of the state, and any minority reports. Copies of the final plan shall be filed with the county election officer, city clerk, each public library within the county and any other place designated by the commission. Copies of such plan shall be available to members of the public for inspection upon request. The commission shall continue in existence at least 90 days following the submission of the final plan pursuant to this subsection.

(e) The final plan shall be submitted to the qualified electors of the county at an election called and held thereon. Such election shall be called and held by the county election officer

in the manner provided by the general bond law. Such election shall be conducted by mail ballot. A summary of the final plan shall be prepared by the commission and shall be published once each week for two consecutive weeks in a newspaper of general circulation within the county. If a majority of the qualified electors voting on the plan who reside within the corporate limits of the city and a majority of the qualified electors voting on the plan who reside outside of the corporate limits of the city vote in favor thereof, the consolidation plan shall be implemented in the manner provided by the plan. If a majority of the electors who reside within the corporate limits of the city or a majority of the qualified electors who reside outside of the corporate limits of the city vote against such plan, the proposed consolidation plan shall not be implemented.

If the commission submits a final plan which does not recommend the consolidation of the city and county or certain city and county offices, functions, services and operations, the provisions of this subsection shall not apply.

New Sec. 4. (a) Any plan submitted by the commission shall provide for the exercise of powers of local legislation and administration not inconsistent with the constitution or other laws of this state.

(b) If the commission submits a plan providing for the consolidation of certain city and county offices, functions, services and operations, the plan shall:

(1) Include a description of the form, structure, functions, powers and officers and the duties of such officers recommended in the plan.

(2) Provide for the method of amendment of the plan.

(3) Authorize the appointment of, or elimination of elected officials and offices.

(4) Specify the effective date of the consolidation.

(5) Include other provisions determined necessary by the commission.

(c) If the plan provides for the consolidation of the city and county, in addition to the requirements of subsection (b) the plan shall:

(1) Fix the boundaries of the governing body's election districts, provide a method for changing the boundaries from time-to-time, any at-large positions on the governing body, fix the number, term and initial compensation of the governing body of the consolidated city-county and the method of election.

(2) Determine whether elections of the governing body of the consolidated city-county shall be partisan or nonpartisan elections and the time at which such elections shall be held.

(3) Determine the distribution of legislative and administrative duties of the consolidated city-county officials, provide for consolidation or expansion of services as necessary, authorize the appointment of a consolidated city-county administrator or a city-county manager, if deemed advisable, and prescribe the general structure of the consolidated city-county government.

(4) Provide for the official name of the consolidated city-county.

(5) Provide for the transfer or other disposition of property and other rights, claims and assets of the county and city.

New Sec. 5. Shawnee county is hereby designated an urban area, as authorized under the provisions of section 17 of article 2 of the constitution of the state of Kansas, for the purpose of granting to such county and urban area powers of local government and consolidation of local government.

New Sec. 6. (a) If the voters approve a plan which provides for the consolidation of the city and county, such consolidated city-county shall be subject to the provisions of this section.

(b) The consolidated city-county shall be subject to the cash-basis and budget laws of the state of Kansas.

(c) Except as provided in subsection (e), and in any other statute which specifically exempts bonds from the statutory limitations on bonded indebtedness, the limitation on bonded indebtedness of a consolidated city-county under this act shall be 30% of the assessed value of all tangible taxable property within such county on the preceding August 25.

(d) The following shall not be included in computing the total bonded indebtedness of the consolidated city-county for the purposes of determining the limitations on bonded indebtedness:

(1) Bonds issued for the purpose of refunding outstanding debt, including outstanding bonds and matured coupons thereof, or judgments thereon.

(2) Bonds issued pursuant to the provisions of article 46 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto.

(3) Bonds issued for the purpose of financing the construction or remodeling of a courthouse, jail or law enforcement center facility, which bonds are payable from the proceeds of a retailers' sales tax.

(4) Bonds issued for the purpose of acquiring, enlarging, extending or improving any storm or sanitary sewer system.

(5) Bonds issued for the purpose of acquiring, enlarging, extending or improving any municipal utility.

(6) Bonds issued to pay the cost of improvements to intersections of streets and alleys or that portion of any street immediately in front of city or school district property.

(e) Any bonded indebtedness and interest thereon incurred by the city or county prior to consolidation shall remain an obligation of the property subject to taxation for the payment thereof prior to such consolidation.

(f) Upon the effective date of the consolidation of the city and county, any retailers' sales tax levied by the city or county in accordance with K.S.A. 12-187 et seq., and amendment thereto, prior to such date shall remain in full force and effect, except that part of the rate attributable to the former city shall not apply to retail sales in the cities of Auburn, Rossville, Silver Lake or Willard.

(g) Upon the effective date of the consolidation of the city and county, the territory of the consolidated city-county shall include:

(1) All of the territory of the county for purposes of exercising the powers, duties and functions of a county.

(2) All of the territory of the county, except the territory of the cities of Auburn, Rossville, Silver Lake or Willard and the unincorporated area of the county, for purposes of exercising the powers, duties and functions of a city.

(h) For the purposes of section 1 of article 5 of the constitution of the state of Kansas, the "voting area" for the governing body of the consolidated city-county shall include all the territory within Shawnee county.

(i) Except for the consolidated city-county and unless otherwise provided by law, other political subdivisions of the county shall not be affected by consolidation of the city and county. Such other political subdivisions shall continue in existence and operation.

(j) Unless otherwise provided by law, the consolidated city-county shall be eligible for the distribution of any funds from the state and federal government as if no consolidation had occurred. Except as provided in this subsection, the population and assessed valuation of the territory of the consolidated city-county shall be considered its population and assessed valuation for purposes of the distribution of moneys from the state or federal government.

(k) The consolidated city-county shall be a county. The governing body of the consolidated city-county shall be considered county commissioners for the purposes of section 2 of article 4 of the constitution of the state of Kansas and shall have all the powers, functions and duties of a county and may exercise home rule powers in the manner and subject to the limitations provided by K.S.A. 19-101a, and amendments thereto, and other laws of this state.

The governing body of the consolidated city-county shall be responsible for any duties or functions imposed by the constitution of the state of Kansas and other laws of this state upon any county office abolished by the consolidation plan. Such duties may be delegated by the governing body or as provided in the consolidation plan.

(l) The consolidated city-county shall be a city of the first class. The governing body of the consolidated city-county shall have all the powers, functions and duties of a city of the first class and may exercise home rule powers in the manner and subject to the limitations provided by article 12 of section 5 of the constitution of the state of Kansas and other laws of this state.

(m) The governing body of the consolidated city-county may create special service districts within the city-county and may levy taxes for services provided in such districts.

(n) Changes in the form of government approved by the voters in accordance with the consolidation plan are hereby declared to be legislative matters and subject to initiative and referendum in accordance with K.S.A. 12-3013 et seq., and amendments thereto.

New Sec. 7. (a) The governing body of a consolidated city-county may not annex any land located outside the county.

(b) The governing body of a consolidated city-county may not initiate annexation procedures of land located within the county, but may annex land upon petition of the owners of any such land.

New Sec. 8. All costs incurred or authorized by the consolidation commission and all other costs incurred by the city and county pursuant to this act shall be paid by the city and county.

New Sec. 9. (a) Until a special election is held at which a final plan is submitted for approval to the electors or until a final plan which does not recommend consolidation of the city and county is adopted by a consolidation commission, the governing body of any city which is the subject of a study considering the consolidation of such city with the county in which such city is located may not initiate pursuant to K.S.A. 12-520, and amendments thereto, annexation procedures of land located within the county, but may annex land upon petition of the owners of any such land.

(b) As used in this section, "city" means any city located within Kansas.

(c) The provisions of this section shall expire on June 30, 2006.

New Sec. 10. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.;

Also on page 1, in line 13, by striking "Section 1." and inserting "Sec. 11.;" and by renumbering the remaining sections accordingly; in line 35, by striking "statute book" and inserting "Kansas register";

In the title, in line 9, by striking "cities" and inserting "certain municipalities; relating to the consolidation of cities and counties"; also in line 9, preceding "treasurer" by inserting "city"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 145, SB 146, SB 148** be passed.

COMMITTEE OF THE WHOLE

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

Recommended **SB 216** be passed.

SB 114, SB 154, SB 178, SB 183 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 225 be amended by adoption of the committee amendments, be further amended by motion of Senator Umbarger as amended by Senate Committee, on page 11, in line 21, by striking all after "the" where it appears for the last time; in line 22, by striking all before "as" and inserting: "motor carrier tax refund fund"

Senator Ostmeyer further amended **SB 225** as amended by Senate Committee, on page 14, after line 33 by inserting the following:

"(d) The department of administration is hereby authorized and directed to pay the following amount from the canceled warrants payment fund as reimbursement for an expired warrant, to the following claimant:

Randy Russell
502 West Ave.
Norton, KS 67654 \$435.89",

and **SB 225** be passed as further amended.

Sub SB 77 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Betts on page, line 35, by striking "or other moneys", and **Sub SB 77** be passed as amended.

SB 93, SB 116, SB 133 be passed over and retain a place on the calendar.

The Committee rose and reported progress (see Committee of the Whole, afternoon session).

On motion of Senator D. Schmidt, the Senate recessed until 2:00 p.m.

AFTERNOON SESSION

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 279, An act concerning retirement and pensions; relating to certain employees of educational institutions under management of state board of regents; death and disability benefits; amending K.S.A. 74-4927a and repealing the existing section, by Committee on Ways and Means.

SB 280, An act concerning income taxation; relating to credits; renewable energy facilities and community wind energy facilities, by Committee on Ways and Means.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2016, HB 2053; Substitute HB 2088; HB 2104, HB 2203, HB 2234, HB 2243**.

Adoption of **HCR 5005**.

Also, passage of **SB 41**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2016, HB 2053; Substitute HB 2088; HB 2104, HB 2203, HB 2234, HB 2243; HCR 5005 were thereupon introduced and read by title.

REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **SB 246** be amended on page 1, in line 34, by striking "in" and inserting "receiving"; also in line 34, following "education" by inserting "and related";

On page 2, in line 2, following "education" by inserting "and related";

On page 4, following line 21, by inserting:

"Sec. 3. K.S.A. 2004 Supp. 72-6407 is hereby amended to read as follows: 72-6407. (a)

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

(2) Except as otherwise provided in paragraph (3) of this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the

pupil's attendance in any of grades nine through 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending special education and related services, except special education and related services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as $\frac{1}{2}$ pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as $\frac{1}{2}$ pupil. A pupil in the custody of the secretary of social and rehabilitation services and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils.

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

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

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

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs. The state board shall select not more than 5,500 preschool-aged at-risk pupils to be counted in any school year.

(e) "Enrollment" means: (1) For districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this clause (1), the number of pupils regularly enrolled in the district on September 20; (2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or (3) the number of pupils as determined under K.S.A. 72-6447, and amendments thereto.

(f) "Adjusted enrollment" means enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, correlation weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, special education and related services weighting, and transportation weighting to enrollment.

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

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

(i) "Low enrollment weighting" means an addend component assigned to enrollment of districts having under ~~1,725~~ 1,700 enrollment on the basis of costs attributable to maintenance of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having ~~1,725~~ 1,700 or over enrollment.

(j) "School facilities weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities. School facilities weighting may be assigned to enrollment of a district only if the district has adopted a local option budget and budgeted therein the total amount authorized for the school year. School facilities weighting may be assigned to enrollment of the district only in the school year in which operation of a new school facility is commenced and in the next succeeding school year.

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

(l) "Correlation weighting" means an addend component assigned to enrollment of districts having ~~1,725~~ 1,700 or over enrollment on the basis of costs attributable to maintenance of educational programs by such districts as to correlate to low enrollment weighting assigned to enrollment of districts having under ~~1,725~~ 1,700 enrollment.

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

(n) "Juvenile detention facility" means: (1) Any secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which shall not be a jail;

(2) any level VI treatment facility licensed by the Kansas department of health and environment which is a psychiatric residential treatment facility for individuals under the age of 21 which conforms with the regulations of the centers for medicare/medicaid services and the joint commission on accreditation of health care organizations governing such facilities; and

(3) the Forbes Juvenile Attention Facility, the Sappa Valley Youth Ranch of Oberlin, Salvation Army/Koch Center Youth Services, the Clarence M. Kelley Youth Center, the Clarence M. Kelley Transitional Living Center, Trego County Secure Care Center, St. Francis Academy at Atchison, St. Francis Academy at Ellsworth, St. Francis Academy at Salina, St. Francis Center at Salina, King's Achievement Center, and Liberty Juvenile Services and Treatment.

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

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

By renumbering sections accordingly;

Also on page 4, in line 41, by striking "the" and inserting "and includes the following funds of the district: Vocational education fund and"; in line 42, by striking "of a district";

On page 6, by striking all in lines 24 through 39 and inserting:

"Sec. 6. K.S.A. 72-6412 is hereby amended to read as follows: 72-6412. The low enrollment weighting of each district with under ~~1,725~~ 1,700 enrollment shall be determined by the state board as follows:

- (a) Determine the amount of the median budget per pupil for the 1991-92 school year of districts with 75-125 enrollment in such school year;
- (b) determine the amount of the median budget per pupil for the 1991-92 school year of districts with 200-399 enrollment in such school year;
- (c) determine the amount of the median budget per pupil for the 1991-92 school year of districts with 1,900 or over enrollment;
- (d) prescribe a schedule amount for each of the districts by preparing a schedule based upon an accepted mathematical formula and derived from a linear transition between (1) the median budgets per pupil determined under (a) and (b), and (2) the median budgets per pupil determined under (b) and (c). The schedule amount for districts with 0-99 enrollment is an amount equal to the amount of the median budget per pupil determined under (a). The schedule amount for districts with 100-299 enrollment is the amount derived from the linear transition under (1). The schedule amount for districts with 300-1,899 enrollment is the amount derived from the linear transition under (2);
- (e) for districts with 0-99 enrollment:
 - (1) Subtract the amount determined under (c) from the amount determined under (a);
 - (2) divide the remainder obtained under (1) by the amount determined under (c);
 - (3) multiply the quotient obtained under (2) by the enrollment of the district in the current school year. The product is the low enrollment weighting of the district;
- (f) for districts with 100-299 enrollment:
 - (1) Subtract the amount determined under (c) from the schedule amount of the district;
 - (2) divide the remainder obtained under (1) by the amount determined under (c);
 - (3) multiply the quotient obtained under (2) by the enrollment of the district in the current school year. The product is the low enrollment weighting of the district;
- (g) for districts with ~~300-1,724~~ 300-1,699 enrollment:
 - (1) Subtract the amount determined under (c) from the schedule amount of the district;
 - (2) divide the remainder obtained under (1) by the amount determined under (c);
 - (3) multiply the quotient obtained under (2) by the enrollment of the district in the current school year. The product is the low enrollment weighting of the district.

Sec. 7. K.S.A. 72-6413 is hereby amended to read as follows: 72-6413. The program weighting of each district shall be determined by the state board as follows:

- (a) Compute ~~full-time~~ *full-time* equivalent enrollment in programs of bilingual education ~~and multiply the computed enrollment by 0.2;~~
 - (1) *for school year 2005-2006, multiply the computed enrollment by 0.3; and*
 - (2) *for school year 2006-2007 and each school year thereafter, multiply the computed enrollment by 0.4;*
- (b) compute full time equivalent enrollment in approved vocational education programs and multiply the computed enrollment by 0.5;
- (c) add the products obtained under (a) and (b). The sum is the program weighting of the district.
- ~~(d) The provisions of this section shall take effect and be in force from and after July 1, 1992;~~

By renumbering sections accordingly;

On page 16, following line 16, by inserting:

“Sec. 12. K.S.A. 72-6442 is hereby amended to read as follows: 72-6442. The correlation weighting of each district with ~~1,725~~ 1,700 or over enrollment shall be determined by the state board as follows:

- (a) Determine the schedule amount for a district with ~~1,725~~ 1,700 enrollment as derived from the linear transition under (d) of K.S.A. 72-6412, and amendments thereto, and subtract the amount determined under (c) of K.S.A. 72-6412, and amendments thereto, from the schedule amount so determined;
- (b) divide the remainder obtained under (a) by the amount determined under (c) of K.S.A. 72-6412, and amendments thereto, and multiply the quotient by the enrollment of the district in the current school year. The product is the correlation weighting of the district.”;

By renumbering sections accordingly;

Also on page 16, in line 23, following “72-6410,” by inserting “72-6412,”; also in line 23, by striking “and 72-6433” and inserting “, 72-6433 and 72-6442”; in line 24, following “72-978,” by inserting “72-6407,”;

In the title, in line 10, following “72-6410,” by inserting “72-6412,”; also in line 10, by striking “and 72-6433” and inserting “, 72-6433 and 72-6442”; in line 11, following “72-978,” by inserting “72-6407,”; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 112** be amended on page 1, in line 18, by striking “, an owner contractor”; in line 20, by striking “visibly”; in line 21, by striking all after “same”; by striking all in line 22; in line 23, by striking all before the period; in line 25, by striking “visible”; in line 30, by striking “; as long as such earlier unsatisfied lien remains unsatisfied”; in line 31, after “full” by inserting “or otherwise discharged”; also in line 31, by striking “preference” and inserting “commencement”; in line 32, by striking all after the period; by striking all in lines 33 and 34;

On page 2, in line 37, after “full” by inserting “or otherwise discharged”; and the bill be passed as amended.

Also, **SB 117** be amended on page 1, in line 18, by striking all after “acts”; in line 19, by striking “date of conviction” and inserting “on or after January 1, 1980”;

On page 4, in line 40, by striking “shall” and inserting “may”; also in line 40, after “offender” by inserting “who meets the requirements of paragraph (1)”; and the bill be passed as amended.

SB 144 be amended on page 1, in line 14, by striking all after “(a)”; by striking all in lines 15 through 25; in line 26, by striking “(2)”; in line 27, by striking “violates” and inserting “is convicted of violating”; in line 34, after “of” by inserting “the person’s conviction of”; in line 36, by striking “licensee”; in line 37, by striking “or”; by striking all in line 43;

On page 2, by striking all in lines 1 through 10; in line 11, by striking “(f)” and inserting “(d)”; in line 13, by striking all after “minor”; in line 14, by striking all before “but”; also in line 14, by striking “or incapacitated person”; also in line 14, after the semicolon, by inserting “or”; in line 15, by striking all after “(B)”; by striking all in line 16; in line 17, by striking all before “any”; in line 18, by striking “violation of” and inserting “the person’s conviction of violating”; by striking all in lines 20 through 25; in line 26, by striking “(4)” and inserting “(2)”; also in line 26, by striking “K.S.A.”; in line 27, by striking all before “K.S.A.”; in line 28, by striking “, as applicable”; by striking all in lines 29 through 37;

And by renumbering the remaining section accordingly;

In the title, in line 10, by striking all after “beverages”; in line 11, by striking all before the period; and the bill be passed as amended.

SB 180 be amended on page 3, in line 30, after “age” by inserting “to”; in line 33, after the period by inserting “No waiting period shall apply to the use of a preliminary breath test under this subsection.”; in line 37, after “results” by inserting “or a refusal to submit to a preliminary breath test”; and the bill be passed as amended.

SCR 1606 be amended on page 2, in line 10, after the comma by inserting “the governor may appoint another of the three persons whose names were submitted to the governor pursuant to subsection (a) and such subsequent appointment shall be considered by the senate in the same procedure as provided in this article. If the governor fails to make such subsequent appointment within 15 days after the senate vote on the previous appointee or if all three persons whose names were submitted to the governor pursuant to subsection (a) have been considered by, but did not receive the consent of, the senate, then”; in line 17, after “nominated” by inserting “or appointed”; and the concurrent resolution be adopted as amended.

Committee on **Ways and Means** recommends **SB 266** be amended on page 1, in line 15, after “authority” by inserting a comma; also in line 15, after “convey” by inserting “, without consideration,”; in line 27, by striking “may” and inserting “shall”; also in line 27, by striking “warranty deed or by”; in line 28, by striking all after “deed”; in line 29, by striking all before the period; in line 33, by striking all after “general”; by striking all in lines 34 through 36; in line 37, by striking “general”; preceding line 38, by inserting the following:

“(d) All costs in any way related to the conveyance shall be paid by the helping hands humane society, inc. The conveyance of real property authorized by this section shall not

be subject to the provisions of K.S.A. 75-3043a, and amendments thereto.”; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 13, SB 52, SB 63, SB 71, SB 72, SB 91, SB 110, SB 158, SB 234 reported correctly engrossed February 23, 2005.

COMMITTEE OF THE WHOLE

The Senate returned to Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Wagle in the chair.

On motion of Senator Wagle the morning report and the following afternoon report were adopted.

Recommended **SB 82, SB 123, SB 151, SB 210, SB 256, SB 258** be passed.

The Committee recommended **SB 121** be passed.

A motion by Senator Barone to amend the bill on page 2, in line 36, by striking “\$500,000” and inserting “\$150,000”, failed and the amendment was rejected.

The Committee recommended **SB 161** be passed.

A motion by Senator Journey to amend **SB 161** failed and the following amendment was rejected: on page 1, in line 15, by inserting after the words “governmental entity” “or” and striking on lines 16 the words “business entity or individual.”; inserting on line 16 after the words “governmental entity” “or” and deleting the comma; on line 17 deleting the words “business entity or individual”; on line 18 deleting the words “or for acts or”; on line 19 deleting the words “omissions by such offender”; also on line 19 after the words “governmental entity” inserting the word “or”; on line 20 deleting the words “business entity or individual”

SB 35, SB 54, SB 55, SB 81, SB 107 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 93 be amended by adoption of the committee amendments.

Senator Pyle moved to amend **SB 93** as amended by Senate Committee, on page 2, after line 28, by inserting the following:

“Sec. 2. K.S.A. 26-513 is hereby amended to read as follows: 26-513. (a) *Necessity*. Private property shall not be taken or damaged for public use without just compensation. *For purposes of this section, public use shall not include the taking of private property for economic development purposes and no private property shall be taken for such purpose.*

(b) *Taking entire tract*. If the entire tract of land or interest in such land is taken, the measure of compensation is the fair market value of the property or interest at the time of the taking.

(c) *Partial taking*. If only a part of a tract of land or interest is taken, the compensation and measure of damages is the difference between the fair market value of the entire property or interest immediately before the taking, and the value of that portion of the tract or interest remaining immediately after the taking.

(d) *Factors to be considered*. In ascertaining the amount of compensation and damages, the following nonexclusive list of factors shall be considered if such factors are shown to exist. Such factors are not to be considered as separate items of damages, but are to be considered only as they affect the total compensation and damage under the provisions of subsections (b) and (c) of this section. Such factors are:

- (1) The most advantageous use to which the property is reasonably adaptable.
- (2) Access to the property remaining.
- (3) Appearance of the property remaining, if appearance is an element of value in connection with any use for which the property is reasonably adaptable.
- (4) Productivity, convenience, use to be made of the property taken, or use of the property remaining.
- (5) View, ventilation and light, to the extent that they are beneficial attributes to the use of which the remaining property is devoted or to which it is reasonably adaptable.
- (6) Severance or division of a tract, whether the severance is initial or is in aggravation of a previous severance; changes of grade and loss or impairment of access by means of underpass or overpass incidental to changing the character or design of an existing

improvement being considered as in aggravation of a previous severance, if in connection with the taking of additional land and needed to make the change in the improvement.

(7) Loss of trees and shrubbery to the extent that they affect the value of the land taken, and to the extent that their loss impairs the value of the land remaining.

(8) Cost of new fences or loss of fences and the cost of replacing them with fences of like quality, to the extent that such loss affects the value of the property remaining.

(9) Destruction of a legal nonconforming use.

(10) Damage to property abutting on a right-of-way due to change of grade where accompanied by a taking of land.

(11) Proximity of new improvement to improvements remaining on condemnee's land.

(12) Loss of or damage to growing crops.

(13) That the property could be or had been adapted to a use which was profitably carried on.

(14) Cost of new drains or loss of drains and the cost of replacing them with drains of like quality, to the extent that such loss affects the value of the property remaining.

(15) Cost of new private roads or passageways or loss of private roads or passageways and the cost of replacing them with private roads or passageways of like quality, to the extent that such loss affects the value of the property remaining.

(e) *Fair market value.* "Fair market value" means the amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion. The fair market value shall be determined by use of the comparable sales, cost or capitalization of income appraisal methods or any combination of such methods.":

And by renumbering sections accordingly;

Also on page 2, in line 29, by striking "is" and inserting "and 26-513 are";

On page 1, in the title, in line 11, after the semicolon, by inserting "taking;"; also in line 11, after "17-618" by inserting "and 26-513"; in line 12, by striking "section" and inserting "sections"

A ruling of the Chair was requested as to the germaneness of the amendment to **SB 93**.

The Chair ruled the amendment to be germane; the ruling of the Chair was challenged.

On a voice vote, the chair was sustained.

Upon the showing of five hands a roll call vote was requested on passage of the amendment.

On roll call, the vote was: Yeas 12, Nays 25, Present and Passing 2, Absent or Not Voting 1.

Yeas: Betts, Goodwin, Haley, Hensley, Huelskamp, Journey, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Steineger.

Nays: Allen, Apple, Barnett, Barone, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Jordan, Kelly, Lee, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wilson.

Present and Passing: Francisco, Wagle.

Absent or Not Voting: Wysong.

The motion failed and the amendment was rejected.

The Committee recommended **SB 93**, as amended by adoption of the committee amendments, be passed as amended.

EXPLANATION OF VOTE

MADAM CHAIRMAN: As a proud proponent of private property rights, I believe that taking one's private property to transfer, give or sell to another private entity is an absolute violation of our fundamental rights. This travesty has been occurring in Kansas. Simply by a majority vote, any governing body in Kansas can take one's property for the sole purpose of generating more tax dollars.

Adoption of this amendment would have seriously limited this unconstitutional taking.—
TIM HUELSKAMP

MADAM CHAIRMAN: The Senate has regressed on this issue. Last year, an almost identical floor amendment was offered. I opposed that amendment because it was poorly crafted and

was so broad as to invite unintended and unjustified consequences. Later in the session, I worked with other interested Senators in the Judiciary Committee to craft better language to accomplish the same goal. I still support that revised language and believe the Senate should consider it after we get guidance from the U.S. Supreme Court in the pending New London case.

Unfortunately, this amendment takes us back to the original, flawed language from last year. I could not support it then, and I cannot support it now.—DEREK SCHMIDT

SB 116 be amended by adoption of the committee amendments, be further amended by motion of Senator Vratil as amended by Senate Committee, on page 2, by striking all in lines 39 through 43;

On page 3, by striking all in lines 1 and 2;

On page 1, in the title, in line 12, by striking all after the semicolon; by striking all in line 13; in line 14, by striking all before “amending”, and **SB 116** be passed as further amended.

SB 133 be amended by adoption of the committee amendments, be further amended by motion of Senator Lee as amended by Senate Committee, on page 1, after line 13, by inserting the following:

“Section 1. K.S.A. 2004 Supp. 79-4508 is hereby amended to read as follows: 79-4508.
(a) Commencing in the tax year beginning after December 31, ~~2003~~ 2005, the amount of any claim pursuant to this act shall be computed by deducting the amount computed under column (2) from the amount of claimant’s property tax accrued and/or rent constituting property tax accrued.

(1) Claimants household income		(2) Deduction from property tax accrued and/or rent constituting property tax accrued
At least	But not more than	
\$0	\$3,000	\$0
3,001	4,000	12%
4,001	26,300	12% plus 4% of every \$1,000, or fraction thereof, of income in excess of \$4,001

(b) The director of taxation shall prepare a table under which claims under this act shall be determined. The amount of claim for each bracket shall be computed only to the nearest \$1.

(c) The claimant may elect not to record the amount claimed on the claim. The claim allowable to persons making this election shall be computed by the department which shall notify the claimant by mail of the amount of the allowable claim.

(d) *In the case of all tax years commencing after December 31, 2004, the upper limit threshold amount prescribed in this section, shall be increased by an amount equal to such threshold amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) of the federal internal revenue code for the calendar year in which the taxable year commences.*”;

And by renumbering sections accordingly;

On page 2, in line 29, after “Supp.” by inserting “79-4508 and”; also in line 29, by striking “is” and inserting “are”;

On page 1, in the title, in line 10, by striking “credits” and inserting “refunds”; in line 11, after “Supp.” by inserting “79-4508 and”; also in line 11, by striking “section” and inserting “sections”, and **SB 133** be passed as further amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 35, SB 54, SB 55; Sub SB 77; SB 81, SB 82, SB 93, SB 107, SB 114, SB 116, SB 121, SB 123, SB 133, SB 151, SB 154, SB 161, SB 178, SB 183, SB 210, SB 216, SB 225, SB 256, SB 258** were advanced to Final Action and roll call.

SB 35, An act regulating traffic; concerning school zones; authorizing school crossing guards; amending K.S.A. 2004 Supp. 8-1486 and 8-2118 and repealing the existing sections.

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

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

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 54, An act concerning roofing materials.

On roll call, the vote was: Yeas 12, Nays 27, Present and Passing 0, Absent or Not Voting 1.

Yeas: Betts, Brownlee, Francisco, Huelskamp, Journey, McGinn, O'Connor, Palmer, Petersen, Steineger, Wagle, Wilson.

Nays: Allen, Apple, Barnett, Barone, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, Morris, Ostmeyer, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil.

Absent or Not Voting: Wysong.

A constitutional majority having failed to vote in favor of the bill, **SB 54** did not pass.

SB 55, An act concerning the employment security laws; relating to breath alcohol test; conclusive evidence of misconduct; amending K.S.A. 2004 Supp. 44-706 and repealing the existing section.

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

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

Absent or Not Voting: Wysong.

The bill passed, as amended.

Sub SB 77, An act concerning racial profiling; prohibiting certain actions and providing remedies for violations.

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

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

Absent or Not Voting: Wysong.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote aye on **Sub SB 77**. Society as a whole is greatly diminished where stereotyping creates a burden on constitutionally protected rights and liberties on any identifiable demographic entity. Perfectly innocent drivers because of the color of their skin and/or the county or state in which their vehicle is registered are being disproportionately detained by potentially bigoted law enforcement officers in our State.

In that we are all taxpayers to one degree or another, it is unconscionable to allow or to permit these same tax dollars to pay for discrimination in who might move freely throughout our society without fear of being detained or harassed or worse for simply being who you are and for no other probable cause.

We all deserve equal protection under the law. This bill is one more baby step towards that ideal.—DAVID HALEY

SB 81, An act regulating traffic; concerning the use of head lamps; amending K.S.A. 8-1703 and repealing the existing section.

On roll call, the vote was: Yeas 27, Nays 12, Present and Passing 0, Absent or Not Voting 1.

Yeas: Allen, Apple, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Jordan, Journey, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wilson.

Nays: Barnett, Barone, Betts, Brownlee, Hensley, Huelskamp, Kelly, Lee, Pyle, Steineger, Taddiken, Wagle.

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 82, An act concerning sex offense prosecutions; relating to the complaining witness; admissibility of prior sexual conduct; amending K.S.A. 21-3525 and repealing the existing section.

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

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

Nays: Haley.

Absent or Not Voting: Wysong.

The bill passed.

SB 93, An act concerning eminent domain; relating to wind energy development projects; amending K.S.A. 17-618 and repealing the existing section.

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

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

Nays: Allen, Brownlee, Bruce, Journey, O'Connor, Wilson.

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 107, An act concerning the employment security law; relating to the charging of benefit payments; amending K.S.A. 2004 Supp. 44-710 and repealing the existing section.

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

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

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 114, An act concerning the bank commissioner; relating to the issuance of civil penalties.

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

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

Nays: Huelskamp, Petersen, Pyle.

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 116, An act relating to certain facilities; concerning social and rehabilitation services; providing injunctive authority against unlicensed facilities; amending K.S.A. 75-3307b and K.S.A. 2004 Supp. 65-5603 and repealing the existing sections.

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

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

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 121, An act concerning the charitable organizations and solicitations act; registration statement; audited financial statement; amending K.S.A. 17-1763 and repealing the existing section.

On roll call, the vote was: Yeas 32, Nays 7, Present and Passing 0, Absent or Not Voting 1.

Yeas: Allen, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Hensley, Huelskamp, Jordan, Journey, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson.

Nays: Barone, Betts, Francisco, Haley, Kelly, Lee, Steineger.

Absent or Not Voting: Wysong.

The bill passed.

SB 123, An act concerning the state treasurer; authority to charge certain fees.

On roll call, the vote was: Yeas 30, Nays 9, Present and Passing 0, Absent or Not Voting 1.

Yeas: Allen, Apple, Barnett, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Goodwin, Huelskamp, Jordan, Journey, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson.

Nays: Barone, Francisco, Gilstrap, Haley, Hensley, Kelly, Lee, Petersen, Pyle.

Absent or Not Voting: Wysong.

The bill passed.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote no on **SB 123**. This bill codifies into law the practice of the State Treasurer of charging an arbitrary fee to every non-payroll check issued by the State. In previous years, this fee has ranged from 27 cents per check up to 32 cents per check, depending upon the number of checks issued. This is not, then, simply recovering the costs of providing a service.

If the Treasurer is truly providing a service, then the Treasurer should expect to receive less revenue in years when fewer checks are issued. Quite the contrary, the Treasurer is actually receiving more revenue, even in a year when the State issues hundreds of thousands of fewer checks.

The Treasurer should determine the fee for providing this service, and charge a set fee for that service. Because of a refusal to do this, and because to the contrary the Treasurer is charging whatever the office wants to, I cannot support putting into statute this method of taking funds from other state agencies to fund the Treasurer's office. — ANTHONY HENSLEY

Senators Barone, Francisco, Kelly and Lee concur with the Explanation of Vote offered by Senator Hensley.

SB 133, An act concerning homestead property tax refunds; amending K.S.A. 2004 Supp. 79-4508 and 79-4521 and repealing the existing sections.

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

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

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 151, An act defining the crimes of trafficking and aggravated trafficking and prescribing penalties therefor.

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

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

Absent or Not Voting: Wysong.

The bill passed.

SB 154, An act relating to food and beverages available to students in Kansas school districts; providing for the adoption of certain standards.

On roll call, the vote was: Yeas 28, Nays 11, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Haley, Jordan, Journey, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wagle, Wilson.

Nays: Allen, Barone, Francisco, Hensley, Huelskamp, Kelly, Lee, O'Connor, Pyle, Steineger, Taddiken.

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 161, An act concerning civil procedure; relating to the liability of certain entities for services performed by offenders.

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

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

Nays: Journey.

Absent or Not Voting: Wysong.

The bill passed.

SB 178, An act concerning home service contracts; enacting the home service contract act; registration with the insurance commissioner.

On roll call, the vote was: Yeas 35, Nays 4, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Huelskamp, O'Connor, Palmer, Pyle.

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 183, An act concerning federally active licenses under the Kansas healing arts act; amending K.S.A. 65-2809 and repealing the existing section.

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

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

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 210, An act regulating traffic; requiring the use of strobe lights on school buses; amending K.S.A. 8-1730 and repealing the existing section.

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

Yeas: Allen, Apple, Barnett, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson.

Nays: Barone, Francisco, Huelskamp, Kelly, Lee, Steineger.

Absent or Not Voting: Wysong.

The bill passed.

SB 216, An act concerning infectious and contagious diseases; powers and duties of local health officials and the secretary of health and environment in investigating infectious or contagious diseases; quarantine or isolation of certain individuals.

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

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

Absent or Not Voting: Wysong.

The bill passed.

SB 225, An act concerning certain claims against the state, making appropriations, authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain disbursements, procedures and acts incidental to the foregoing.

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

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

Absent or Not Voting: Wysong.

The bill passed, as amended.

SB 256, An act concerning income taxation; relating to exemptions; payments to military personnel; amending K.S.A. 2004 Supp. 79-32,117 and repealing the existing section; also repealing K.S.A. 2004 Supp. 79-32,117j and 79-32,117k.

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

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

Nays: Francisco.

Absent or Not Voting: Wysong.

The bill passed.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote NO on **SB 256** because no fiscal note for this bill was made available.—MARC FRANCISCO

SB 258, An act concerning form of statutory and legal documents; prescribing certain duties on the judicial council; amending K.S.A. 59-2124, 59-2129, 59-2143, 59-2210, 60-258, 60-268, 60-302, 60-307, 60-706 and 61-2705 and K.S.A. 2004 Supp. 58-4301, 59-1507b, 60-201, 60-1102, 60-1103, 60-1103b, 60-2420 and 61-2713 and repealing the existing sections; also repealing K.S.A. 60-269 and the appendix of forms following K.S.A. 60-269.

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

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

Absent or Not Voting: Wysong.

The bill passed.

CHANGE OF REFERENCE

The Vice President withdrew **SB 33, SB 173, SB 233, SB 259** from the Committee on Commerce, and referred the bills to the Committee on Ways and Means.

The Vice President withdrew **SB 212, SB 235** from the Committee on Health Care Strategies, and referred the bills to the Committee on Ways and Means.

The Vice President withdrew **SB 103** from the Committee on Financial Institutions and Insurance, and referred the bill to the Committee on Ways and Means.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Thursday, February 24, 2005.

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

PAT SAVILLE, *Secretary of the Senate*.

