

Journal of the Senate

FORTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, March 16, 2006—2:30 p.m.

The Senate was called to order by Vice President John Vratil.

The roll was called with forty senators present.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

At 7:30 I'm in Caucus
With sleep still in my eyes
Helping to plan our strategy
Hoping we will be wise.

At 8:30 I'm in Commerce
On Workers Compensation;
At 9:30 in Judiciary
For anti-trust conversation.

At 10:30 I'm in Federal and State
Discussing unification.
At 1:30 we study gifted children
In the Committee on Education.

I'm in the session at 2:30
Where we deal with Final Action;
Followed by General Orders
Hoping for satisfaction.

Besides all this I have a job
Way out in Western Kansas.
Keeping my head above the water
Requires my taking chances.

Sometimes I visit my family
So the situation won't worsen
And the dog won't try to bite me,
And the kids ask, "Who's that person?"

So when somebody says to me,
"What an easy life you chose."
Lord, help me to control myself,
And not punch him in the nose!

I ask this in the Name of Jesus Christ,

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 592, An act enacting the asbestos compensation fairness act; concerning asbestos claims, by Committee on Ways and Means.

COMMUNICATIONS FROM STATE OFFICERS

OFFICE OF THE ATTORNEY GENERAL

Consumer Protection and Antitrust Division

March 14, 2006

Phill Kline, Attorney General, submitted pursuant to K.S.A. 50-628 and K.S.A. 50-109, the 2004 Annual Report.

DEPARTMENT OF REVENUE

Division of Property Valuation

March 15, 2006

Mark S. Beck, Director, Division of Property Valuation, submitted the 2005 Preliminary Real Estate Appraisal/Sales Ratio Study as required by K.S.A. 79-1490. The publication, along with additional ratio study data, is available in pdf format on the Kansas Department of Revenue Website at:

<http://www.ksrevenue.org/pvdrationstats.htm>

STATE OF THE JUDICIARY

Kansas Supreme Court

Pursuant to K.S.A. 20-320, Kay McFarland, Chief Justice, submitted the 2006 Annual Report of the Chief Justice of the Kansas Supreme Court.

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

MESSAGE FROM THE HOUSE

Announcing passage of **Substitute HB 2513; HB 2548, HB 2577, HB 2746**.

Also, passage of **SB 362**, as amended, **SB 481**, as amended.

The House accedes to the request of the Senate for a conference on **SB 25**, and has appointed Representatives O'Neal, Kinzer and Pauls as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

Substitute HB 2513; HB 2548, HB 2577, HB 2746 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Teichman the Senate nonconcurrent in the House amendments to **H Sub SB 207** and requested a conference committee be appointed.

The Vice President appointed Senators Teichman, Wysong and Steineger as a conference committee on the part of the Senate.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

HB 2554, An act concerning criminal procedure; relating to the collection of DNA specimens; creating the DNA database fund; amending K.S.A. 2005 Supp. 21-2511 and repealing the existing section, was considered on final action.

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

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

Nays: Barone, Betts, Haley, Hensley, Huelskamp, Journey, Lee, Ostmeyer, Palmer, Pyle, Steineger.

Present and Passing: Francisco.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: We have the technology to protect the public, convict criminals, and exonerate the innocent. Because there is no legitimate reason not to use technology for this greater good, I vote aye.—TERRY BRUCE

MR. VICE PRESIDENT: I vote no on **HB 2554** not because it isn't a good idea, it is. I appreciate the work of the author and the committee. It goes too far it is too broad. It is the details of the bill that require my opposition. **HB 2554** requires the physical intrusion and the collection of the most sensitive information of those who will not be convicted of any crime. It violates the privacy of Kansans and criminalizes the refusal to submit to this most invasive intrusion. There is no protection provided for in this bill to secure this most private information. We set a dangerous precedent today that will probably in the future be expanded to driver licenses or other areas in our lives.—PHILLIP B. JOURNEY

HB 2595, An act designating the Anthony 9/11 memorial as the Kansas 9/11 memorial, was considered on final action.

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

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

The bill passed.

HB 2645, An act enacting the vehicle title service agent licensing act, was considered on final action.

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

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

Nays: Huelskamp, Pyle.

The bill passed.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote aye on **HB 2645**. This bill provides appropriate standards and regulation for persons or businesses who desire to assist the public with vehicle title servicing. Persons can provide this service whether they are a car dealership, a bank, or even if they have an insurance license.

This is in sharp contrast to other pending legislation that would prohibit the public being serviced by private entities for drivers license renewal.

I vote aye because this bill is good for the consumer.—ANTHONY HENSLEY

Senator Petersen requests the record to show he concurs with the "Explanation of Vote" offered by Senator Hensley on **HB 2645**.

HB 2663, An act amending the Kansas uniform securities act; amending K.S.A. 2005 Supp. 17-12a102, 17-12a202, 17-12a305, 17-12a405, 17-12a406 and 17-12a412 and repealing the existing sections, was considered on final action.

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

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

The bill passed.

HB 2756, An act amending the Kansas storage tank act; providing for the reimbursement of certain expenses; establishing the Kansas essential fuels supply trust fund and the Kansas essential fuel supply trust fund compensation advisory board; amending K.S.A. 65-34,117

and K.S.A. 2005 Supp. 65-34,102 and repealing the existing sections, was considered on final action.

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

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

Nays: Journey, Pyle.

Present and Passing: Huelskamp.

The bill passed.

S Sub for HB 2875, An act concerning sand and gravel pits; relating to the beneficial use of water; amending K.S.A. 2005 Supp. 82a-734 and repealing the existing section, was considered on final action.

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

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

The substitute bill passed.

REPORT ON ENGROSSED BILLS

SB 40, SB 355 reported correctly re-engrossed March 16, 2006.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 389**, as amended by Senate Committee, be further amended on page 1, in line 15, after "for" by inserting "construction of"; in line 19, after "for" by inserting "construction of"; in line 21, after the period, by inserting: "A taxpayer may only claim the credit provided in this section one time for expenditures for construction of a qualified biofuels mixing facility for ethanol and one time for expenditures for construction of a qualified biofuels mixing facility for biodiesel."; in line 22, after the period, by inserting "Expenditures used to qualify for this tax credit shall not be used to qualify for any other type of Kansas income tax credit."; in line 33, by striking all after "(c)"; by striking all in lines 34 through 43;

On page 2, by striking all in lines 1 through 7; in line 8, by striking "(d)"; in line 12, by striking all after "facility"; by striking all in line 13; in line 14, by striking all before the semicolon; in line 27, by striking "(e)" and inserting "(d)"; and the bill be passed as amended.

Committee on **Commerce** recommends **HB 2671**, as amended by House Committee, be amended on page 1, following the enacting clause by inserting:

"Section 1. K.S.A. 2005 Supp. 44-523 is hereby amended to read as follows: 44-523. (a) The director, administrative law judge or board shall not be bound by technical rules of procedure, but shall give the parties reasonable opportunity to be heard and to present evidence, insure the employee and the employer an expeditious hearing and act reasonably without partiality.

(b) Whenever a party files an application for hearing pursuant to K.S.A. 44-534 and amendments thereto, the matter shall be assigned to an administrative law judge for hearing and the administrative law judge shall set a terminal date to require the claimant to submit all evidence in support of the claimant's claim no later than 30 days after the first full hearing before the administrative law judge and to require the respondent to submit all evidence in support of the respondent's position no later than 30 days thereafter. An extension of the foregoing time limits shall be granted if all parties agree. An extension of the foregoing time limits may also be granted:

- (1) If the employee is being paid temporary or permanent total disability compensation;
- (2) for medical examination of the claimant if the party requesting the extension explains in writing to the administrative law judge facts showing that the party made a diligent effort

but was unable to have a medical examination conducted prior to the submission of the case by the claimant but then only if the examination appointment was set and notice of the appointment sent prior to submission by the claimant; or

(3) on application for good cause shown.

(c) When all parties have submitted the case to an administrative law judge for an award, the administrative law judge shall issue an award within 30 days. The administrative law judge shall not stay a decision due to the absence of a submission letter. When the award is not entered in 30 days, any party to the action may notify the director that an award is not entered and the director shall assign the matter to an assistant director or to a special administrative law judge who shall enter an award forthwith based on the evidence in the record, or the director, on the director's own motion, may remove the case from the administrative law judge who has not entered an award within 30 days following submission by the party and assign it to an assistant director or to a special administrative law judge for immediate decision based on the evidence in the record.

(d) Not less than 10 days prior to the first full hearing before an administrative law judge, the administrative law judge shall conduct a prehearing settlement conference for the purpose of obtaining stipulations from the parties, determining the issues and exploring the possibility that the parties may resolve those issues and reach a settlement prior to the first full hearing.

(e) (1) If a party or a party's attorney believes that the administrative law judge to whom a case is assigned cannot afford that party a fair hearing in the case, the party or attorney may file a motion for change of administrative law judge. A party or a party's attorney shall not file more than one motion for change of administrative law judge in a case. The administrative law judge shall promptly hear the motion informally upon reasonable notice to all parties who have appeared in the case. Notwithstanding the provisions of K.S.A. 44-552, and amendments thereto, the administrative law judge shall decide, in the administrative law judge's discretion, whether or not the hearing of such motion shall be taken down by a certified shorthand reporter. If the administrative law judge disqualifies the administrative law judge's self, the case shall be assigned to another administrative law judge by the director. If the administrative law judge refuses to disqualify the administrative law judge's self, the party seeking a change of administrative law judge may file in the district court of the county in which the accident occurred the affidavit provided in subsection (e)(2). If an affidavit is to be filed in the district court, it shall be filed within 10 days.

(2) If a party or a party's attorney files an affidavit alleging any of the grounds specified in subsection (e)(3), the chief judge shall at once determine, or refer the affidavit to another district court judge for prompt determination of, the legal sufficiency of the affidavit. If the affidavit is filed in a district court in which there is no other judge who is qualified to hear the matter, the chief judge shall at once notify the departmental justice for the district and request the appointment of another district judge to determine the legal sufficiency of the affidavit. If the affidavit is found to be legally sufficient, the district court judge shall order the director to assign the case to another administrative law judge or to an assistant director.

(3) Grounds which may be alleged as provided in subsection (e)(2) for change of administrative law judge are that:

(A) The administrative law judge has been engaged as counsel in the case prior to the appointment as administrative law judge.

(B) The administrative law judge is otherwise interested in the case.

(C) The administrative law judge is related to either party in the case.

(D) The administrative law judge is a material witness in the case.

(E) The party or party's attorney filing the affidavit has cause to believe and does believe that on account of the personal bias, prejudice or interest of the administrative law judge such party cannot obtain a fair and impartial hearing. Such affidavit shall state the facts and the reasons for the belief that bias, prejudice or an interest exists.

(4) In any affidavit filed pursuant to subsection (e)(2), the recital of previous rulings or decisions by the administrative law judge on legal issues or concerning prior motions for change of administrative law judge filed by counsel or such counsel's law firm, pursuant to this subsection, shall not be deemed legally sufficient for any belief that bias or prejudice exists.

(f) Any claim that has not proceeded to final hearing, a settlement hearing, or an agreed award under the workers compensation act within five years from the date of filing an application for hearing pursuant to K.S.A. 44-534, and amendments thereto, shall be dismissed by the administrative law judge for lack of prosecution. The administrative law judge may grant an extension for good cause shown, which shall be conclusively presumed in the event that the claimant has not reached maximum medical improvement, provided such motion to extend is filed prior to the five year limitation provided for herein. This section shall not affect any future benefits which have been left open upon proper application by an award or settlement.”;

By renumbering the remaining sections accordingly;

Also on page 1, in line 14, by striking “Section” and inserting “Sec.”;

On page 2, in line 16, by striking “is” and inserting “and K.S.A. 2005 Supp. 44-523 are”;

In the title, in line 10, preceding “de-” by inserting “closure of claims;”; in line 11, following “and” by inserting “K.S.A. 2005 Supp. 44-523 and”; also in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Education** recommends **HB 2575** be passed.

Also, **HB 2572**, as amended by House Committee, be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Federal and State Affairs** recommends **SB 580**, **SB 590**; **HB 2541**; **HB 2809**, as amended by House Committee, be passed.

Committee on **Financial Institutions and Insurance** recommends **HB 2735**, as amended by House Committee, be passed.

Also, **HB 2806** 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 2662 be amended on page 1, in line 21, by striking “of” and inserting “after”; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HCR 5011**, as amended by House Committee, be adopted and, because the committee is of the opinion that the concurrent resolution is of a noncontroversial nature, be placed on the consent calendar.

Also, **HB 2285**, as amended by House Committee of the Whole, be amended on page 1, in line 24, by striking “Within 60 days after the effective date of this act the” and inserting “(a) The”; in line 27, by striking “said” and inserting “the”;

On page 2, after line 13, by inserting:

“(b) The provisions of this act shall not affect the office of any member of the board appointed prior to the effective date of this act. As positions become vacant on the board, appointments shall be made in a manner so as to comply with the provisions of this section.”;

Also on page 2, in line 19, by striking “said” and inserting “the”;

On page 3, in line 38, by striking “said” and inserting “the”; in line 43, by striking “said” and inserting “the”;

On page 4, in line 6, by striking “said” and inserting “the”; in line 43, by striking “In order not to confuse or mislead the consuming public, no” and inserting “No”;

On page 6, in line 34, after “74-5811” by inserting a comma;

On page 8, in line 18, before “who” by inserting: “and holds a doctoral degree or its equivalent in audiology from a nationally or regionally accredited college or university in a program with educational standards consistent with those of the state universities of Kansas.”;

On page 9, in line 25, by striking “, temporary license, or”; also in line 25, by striking “a” where it appears for the last time; in line 26, by striking all before the period and inserting “or temporary license”;

On page 11, after line 10, by inserting:

“(c) This section shall be part of and supplemental to the hearing instrument act.”;

Also on page 11, in line 34, before “The” by inserting “(a)”; in line 40, by striking “New Sec. 19.” and inserting “(b)”;

On page 12, in line 2, by striking “New Sec. 20.” and inserting “(c)”; in line 10, by striking “New Sec. 21.” and inserting “(d)”; in line 12, by striking “New Sec. 22.” and inserting “(e)”;

after line 16, by inserting:

“(f) This section shall be part of and supplemental to the hearing instrument act.”;

And by renumbering sections accordingly;

On page 13, in line 30, after “act” by inserting “and the act of which this section is amendatory”; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2709** be amended on page 1, after line 13, by inserting the following:

“Section 1. K.S.A. 68-2315 is hereby amended to read as follows: 68-2315. Annually, prior to the 10th day of each regular session of the legislature, the secretary of transportation shall submit a written report to the governor and each member of the legislature providing:

(a) Summary financial information and a statement of assurance that the department of transportation has prepared a comprehensive financial report of all funds for the preceding year which includes a report by independent public accountants attesting that the financial statements present fairly the financial position of the Kansas department of transportation in conformity with generally accepted accounting principles and a notification that the complete comprehensive financial report, including the auditor’s report is available upon request;

(b) a detailed explanation of the methods or criteria employed in the selection of substantial maintenance and construction projects and in the awarding of assistance to cities, counties or other transportation providers;

(c) the proposed allocation and expenditure of moneys and proposed work plan for the current fiscal year and at least the next five years;

(d) information concerning system enhancements, construction work completed in the preceding fiscal year and construction work in progress;

(e) information concerning the operation and financial condition of the transportation revolving fund;

(f) *the annual allocation and expenditure of moneys from the coordinated public transportation assistance fund under K.S.A. 75-5035, and amendments thereto;*

(g) *the annual allocation and expenditure of moneys from the rail service improvement fund under K.S.A. 75-5048, and amendments thereto, including specific information relating to any grants or loans made under such program;*

(h) *the annual allocation and expenditure of moneys from the public use general aviation airport development fund under K.S.A. 75-5061, and amendments thereto, including specific information relating to grants made under such program;*

~~(i)~~ (i) specific recommendations for any statutory changes necessary for the successful completion of the comprehensive transportation program specified in K.S.A. 68-2314a or efficient and effective operation of the Kansas department of transportation; and

~~(j)~~ (j) an explanation of any material changes from the previous annual report.”;

And by renumbering the remaining sections accordingly;

On page 2, in line 8, after “K.S.A.” by inserting “68-2315 and K.S.A.”; also in line 8, by striking “is” and inserting “are”;

In the title, in line 9, after “ACT” by inserting “relating to the department of transportation”; in line 10, after “amending” by inserting “K.S.A. 68-2315 and”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 578** be amended on page 1, in line 21, after “displaced”, by inserting “dangerous”; in line 23, after “any”, where it appears for the second time, by inserting “dangerous”; in line 25, after “loan”, by inserting “dangerous”; in line 27, after “any”, by inserting “dangerous”; in line 30, after “the”, by inserting “dangerous”; in line 32, after “the”, by inserting “dangerous”; in line 35, after “for”, by inserting “dangerous”; in line 41, by striking “Regulated” and inserting “Dangerous regulated”; also in line 41, after “means”, by inserting “a live or slaughtered parts of”; in line 43, by striking “and”;

On page 2, in line 1, by striking the period and inserting “; and

(3) all non-native, venomous snakes.”;

Also on page 2, in line 4, before the period by inserting: “and includes the animal control officer, as defined by K.S.A. 47-1701, and amendments thereto, of such county or city. If the county or city does not have an animal control officer, for cities of the first class, the chief law enforcement officer shall have the local animal control authority duties and re-

sponsibilities pursuant to this act and for all other cities and counties, the county sheriff shall have the local animal control authority duties and responsibilities pursuant to this act”; in line 5, by striking “Designated approved” and inserting “Registered designated”; also in line 5, by striking all after “who”; by striking all in line 6; in line 7, by striking all before the period and inserting “is registered or would be required to be registered pursuant to section 10, and amendments thereto”; in line 9, by striking “a” and inserting “, slaughter, sell, purchase or otherwise acquire a dangerous”; in line 10, before “regulated”, by inserting “dangerous”; in line 12, after “for”, by inserting “dangerous”; in line 16, after “for”, by inserting “dangerous”; in line 18, before “regulated” where it appears for the first time, by inserting “dangerous”; also in line 18, before “regulated” where it appears for the second time, by inserting “dangerous”; in line 21, by striking “and” and inserting a comma; in line 23, before “may”, by inserting “and, within 10 years preceding July 1, 2006, has not been convicted of a felony under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as a felony,”; also in line 23, before “regulated”, by inserting “dangerous”; in line 25, before “regulated”, by inserting “dangerous”; in line 27, before “regulated”, by inserting “dangerous”; in line 30, before “regulated”, by inserting “dangerous”; in line 32, before “regulated” where it appears for the first time, by inserting “dangerous”; also in line 32, before “regulated” where it appears for the second time, by inserting “dangerous”; in line 35, before “regulated”, by inserting “dangerous”; in line 37, before “regulated”, by inserting “dangerous”; in line 38, before “regulated”, by inserting “dangerous”; in line 39, before “regulated”, by inserting “dangerous”; in line 40, after “each”, by inserting “dangerous”; in line 41, before “designated”, by inserting “registered”; also in line 41, by striking “ap-”; in line 42, by striking “proved”; in line 43, before “regulated”, by inserting “dangerous”;

On page 3, in line 3, before “regulated”, by inserting “dangerous”; in line 11, after “where”, by inserting “dangerous”; in line 16, by striking “Regulated” and inserting “Dangerous regulated”; in line 20, before “regulated”, by inserting “dangerous”; in line 22, before “regulated”, by inserting “dangerous”; in line 24, by striking all after “(c)”; by striking all in lines 25 through 29 and inserting “Any fees charged and collected shall be retained by the local animal control authority to be used to implement the provisions of this act.”; in line 30, before “regulated”, by inserting “dangerous”; in line 32, before “regulated”, by inserting “dangerous”; in line 33, before “regulated”, by inserting “dangerous”; in line 34, before “regulated”, by inserting “dangerous”; in line 37, before “regulated”, by inserting “dangerous”; in line 40, before “regulated”, by inserting “dangerous”; in line 42, before “regulated”, by inserting “dangerous”;

On page 4, in line 1, before “regulated”, by inserting “dangerous”; in line 4, before “regulated”, by inserting “dangerous”; in line 5, after “a” where it appears for the second time, by inserting “dangerous”; in line 7, before “regulated”, by inserting “dangerous”; in line 8, before “regulated”, by inserting “dangerous”; in line 9, before “regulated”, by inserting “dangerous”; in line 11, before “regulated”, by inserting “dangerous”; in line 13, before “regulated”, by inserting “dangerous”; in line 14, before “regulated”, by inserting “dangerous”; in line 16, before “regulated”, by inserting “dangerous”; in line 18, before “regulated”, by inserting “dangerous”; in line 21, before “regulated”, by inserting “dangerous”; in line 23, before “regulated”, by inserting “dangerous”; in line 25, before “regulated”, by inserting “dangerous”; in line 26, before “regulated”, by inserting “dangerous”; in line 28, after the period, by inserting “The requirements for the sufficient strength of the cage shall be established by rules and regulations adopted by the secretary of wildlife and parks. When such cage is permanently affixed to the premises, surrounding such cage shall be a fence or guard at least five feet from any part of such cage to prohibit physical contact with any person other than such persons listed in subsection (d).”; in line 29, before “regulated”, by inserting “dangerous”; in line 31, before “regulated”, by inserting “dangerous”; in line 33, before “regulated”, by inserting “dangerous”; in line 34, after “the” where it appears for the third time, by inserting “registered”; in line 35, by striking “approved”; in line 37, before “regulated”, by inserting “dangerous”; in line 40, before “regulated”, by inserting “dangerous”;

On page 5, in line 3, before “regulated”, by inserting “dangerous”; in line 7, before “regulated”, by inserting “dangerous”; in line 13, before “regulated”, by inserting “dangerous”;

ous"; in line 19, before "regulated", by inserting "dangerous"; in line 25, before "regulated", by inserting "dangerous"; in line 31, before "regulated", by inserting "dangerous"; in line 34, before "regulated", by inserting "dangerous"; in line 36, before "regulated", by inserting "dangerous"; in line 43, before "regulated", by inserting "dangerous";

On page 6, in line 1, before "regulated", by inserting "dangerous"; in line 3, before "regulated", by inserting "dangerous"; in line 6, before "regulated", by inserting "dangerous"; in line 13, before "regulated", by inserting "dangerous"; in line 20, before "regulated", by inserting "dangerous"; in line 22, before "reg-", by inserting "dangerous"; in line 24, before "regulated", by inserting "dangerous"; in line 26, before "regulated", by inserting "dangerous"; in line 39, after "of" where it appears for the second time, by inserting "dangerous";

On page 7, in line 1, before "regulated" and inserting "dangerous"; in line 4, before "Annually", by inserting "(a)"; in line 6, before "regulated", by inserting "dangerous"; following line 10, by inserting:

"(b) It shall be a violation of this act for a person who does not own the dangerous regulated animal, to care for, have custody or control of such animal unless such person is a registered designated handler. Any such person applying for a designated handler registration shall file an application on a form prescribed by the local animal control authority. Application for such registration shall be accompanied by an application fee not exceeding \$25. If the local animal control authority finds the applicant to be qualified to be a registered designated handler after meeting the training, experience and ability requirements determined by the secretary of wildlife and parks, the local animal control authority shall issue a designated handler registration which shall expire at the end of the calendar year.

(c) The secretary of wildlife and parks shall adopt rules and regulations:

(1) Establishing training, experience and ability requirements for registered designated handlers;

(2) creating and conducting educational training programs for the local animal control authority concerning the handling of dangerous regulated animals; and

(3) to implement the provisions of this act.;"

Also on page 7, in line 12, before "regulated", by inserting "dangerous"; in line 13, after "include", by inserting ", but not be limited to,;" in line 14, before "regulated", by inserting "a dangerous"; and the bill be passed as amended.

Also, **HB 2583** be amended on page 10, after line 26, by inserting the following:

"Sec. 4. K.S.A. 74-4906 is hereby amended to read as follows: 74-4906. (1) The board shall hold regular meetings in Topeka, Kansas, at least once each quarter, the dates, time and place to be fixed by the board. The regular meeting held in July of each year shall be the annual meeting and the board shall elect the chairperson of the board as prescribed by subsection (c) of K.S.A. 74-4905 and amendments thereto. Special meetings may be called upon written call of the chairperson or by agreement of any five members of the board. Notice of a special meeting shall be delivered to all other trustees in person or by registered or certified United States mail not less than seven days prior to the date fixed for the meeting. Notice of any such meeting may be waived by any member either before or after such meeting and attendance at such a meeting shall constitute a waiver of notice of such meeting, unless a member participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

(2) Five trustees shall constitute a quorum for the transaction of business, but any official action of the board shall be based upon a favorable vote by at least five trustees at a regular or special meeting of the board.

(3) Members of the Kansas public employees retirement system board of trustees shall receive compensation, ~~subsistence allowance and mileage~~ in the amount provided for members of the legislature pursuant to K.S.A. 75-3223, and amendments thereto, and shall receive ~~subsistence allowance, mileage and expenses in addition to subsistence allowance and mileage in the amount provided for a member of a board~~ pursuant to K.S.A. ~~75-3212~~ 75-3223 and amendments thereto, for each day or part thereof in which such member attended a meeting authorized by the board. Amounts paid under this subsection shall be paid from the expense reserve fund provided for in section (d) of K.S.A. 74-4922 and amendments thereto.

(4) Duties performed for the system by any member of the board who is a public officer or employee shall be considered duties in connection with regular public employment of such individual, and such member shall suffer no loss in normal compensation from public funds by reason of the performances of such duties.

Sec. 5. K.S.A. 74-4914d is hereby amended to read as follows: 74-4914d. Any additional cost resulting from the normal retirement date and retirement before such normal retirement date for security officers as provided in K.S.A. 74-4914c, and amendments thereto, and disability benefits as provided in K.S.A. 74-4914e, *and amendments thereto*, shall be added to the employer rate of contribution for the department of corrections as otherwise determined under K.S.A. 74-4920, *and amendments thereto*, *except that the employer rate of contribution for the department of corrections including any such additional cost added to such employer rate of contribution pursuant to this section shall in no event exceed the employer rate of contribution for the department of corrections for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which security officers contribute during the period: (a) For the fiscal year commencing in calendar year 2006, an amount not to exceed more than 0.5% of the amount of the immediately preceding fiscal year; and (b) for the fiscal year commencing in calendar year 2007, and in each subsequent calendar year, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year.*”;

And by renumbering sections accordingly;

On page 27, after line 27, by inserting the following:

“Sec. 17. K.S.A. 74-4995 is hereby amended to read as follows: 74-4995. (1) Employer and employee contributions shall be governed by the provisions of K.S.A. 74-4919 and 74-4920 and amendments thereto. For purposes of contributions to and benefits under the Kansas public employees retirement system, except as provided in subsection (2), (3) or (4), compensation of members under this act shall be a monthly amount equal to the compensation to which the member was entitled for services as a member of the legislature during the period January 15 to February 14, inclusive, of the most recent session in which the member has served and employer and employee rate of contribution shall be applied to such amounts monthly. The employee and employer contributions shall be remitted to the system quarterly with a report of same as may be required by the board. The employee contributions may be deducted from either any compensation of the member or any expense allowance or reimbursement of the member, or any combination thereof.

(2) For service as a member after July 18, 1982, a member of the legislature may elect to participate with a rate of compensation that includes a monthly amount equal to $\frac{1}{12}$ of the annualized amount received for monthly allowance under subsection (c) of K.S.A. 46-137a and amendments thereto. Such changes in the member’s rate of compensation and contributions shall be effective the first day of the payroll period coinciding with or following the calendar quarter in which the election is received by the board of trustees of the system. All elections shall be in the form and manner prescribed by the board of trustees.

~~(3) For service as a member after July 18, 1982, and prior to the effective date of this act, a member of the legislature may elect to participate with a rate of compensation that includes a monthly amount equal to $\frac{1}{12}$ th the annualized amount received for expenses allowance under subsection (b) of K.S.A. 46-137a and amendments thereto. Upon such election, such member of the legislature shall make a lump-sum payment equivalent to 4% of such compensation, and the member’s final average salary shall be based on compensation added thereto.~~

~~—(4) (3) A member of the legislature may elect to participate with a rate of compensation that includes a monthly amount equal to $\frac{1}{12}$ th the annualized amount received for expenses allowance under subsection (b) of K.S.A. 46-137a and amendments thereto. Such changes in the member’s rate of compensation and contributions shall be effective the first day of the payroll period coinciding with or following the calendar quarter in which the election is received by the board of trustees of the system. All elections shall be in the form and manner prescribed by the board of trustees.~~

~~(5) (4) Any member of the legislature making one or more of the elections provided in this section may not revoke such election or elections while they remain a participating employee for service as a member of the legislature.”;~~

And by renumbering sections accordingly;

Also on page 27, in line 28, after "K.S.A." by inserting "74-4906, 74-4914d.,"; in line 29, by striking "and" where it appears for the first time and inserting a comma; also in line 29, after "74-4990" by inserting "and 74-4995";

In the title, in line 10, after the semicolon, by inserting "employer and employee contributions for certain members; compensation for members of board of trustees,;" in line 11, after "K.S.A." by inserting "74-4906, 74-4914d.,"; in line 13, by striking "and" where it appears for the first time and inserting a comma; also in line 13, after "74-4990" by inserting "and 74-4995"; 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 Emler in the chair.

On emergency motion of Senator D. Schmidt, **SB 578** was advanced to the first order of business on the calendar under the heading of General Orders.

On motion of Senator Emler the following report was adopted:

SB 578 be amended by adoption of the committee amendments, be further amended by motion of Senator Goodwin, as amended by Senate Committee, on page 5, in line 3, following the stricken material, by inserting "Any person who possesses a dangerous regulated animal shall maintain liability insurance coverage or secure a bond in an amount of not less than \$250,000 for each occurrence for liability damages for destruction of or damage to property and death or bodily injury to a person caused by the dangerous regulated animal. The person possessing the animal shall provide a copy of the policy for liability insurance or proof of the bond to the local animal control authority. Any insurer shall notify the local animal control authority, in writing, of any expiration, reduction or cancellation of liability insurance, furnished as required by this subsection, not later than 10 days before the expiration, reduction or cancellation takes effect. Any surety company who secures the performance of the bond shall notify the local animal control authority, in writing, of any expiration, reduction or cancellation of the bond, furnished as required by this subsection, not later than 10 days before the expiration, reduction or cancellation takes effect.

(d)"

Senator Donovan further amended **SB 578**, on page 9, line 29, following "association" by inserting "or The Zoological Association of America", and **SB 578** be passed as further amended.

SB 587 be amended by adoption of the committee amendments, be further amended by motion of Senator Brungardt, as amended by Senate Committee, on page 7, in line 33, after "(1)", by inserting "(A)"; in line 34, by striking "(A)" and inserting "(i)"; in line 36, by striking "(B)" and inserting "(ii)"; in line 40, by striking "(2)" and inserting "(B)"; in line 41, by striking "(A)" and inserting "(i)"; in line 43, by striking "(B)" and inserting "(ii)";

On page 8, in line 5, by striking "(C)" and inserting "(iii)"; in line 7, before the period, by inserting "; and

(2) The commission determines that the proposed development consists of an investment in infrastructure, including ancillary lottery gaming facility operations, of at least \$200,000,000";

On page 10, in line 36, after "parimutuel", by inserting "licensee"; in line 37, by striking "racetrack" and inserting "lottery"; in line 38, by striking "racetrack" and inserting "lottery";

On page 18, in line 23, after "parimutuel", by inserting "licensee"

Senator Betts moved to amend **SB 587**, as amended by Senate Committee, on page 10, in line 18, after the stricken "and", by inserting "and"; in line 27, by striking "; and" and inserting a period; by striking all in lines 28 through 40

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

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

Yeas: Barone, Betts, Donovan, Gilstrap, Haley, Hensley, Kelly, Lee, McGinn, Morris, Petersen, Schmidt D, Schodorf, Steineger, Umbarger, Wagle.

Nays: Allen, Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Francisco, Goodwin, Huelskamp, Jordan, Journey, O'Connor, Ostmeyer, Palmer, Pine, Pyle, Reitz, Schmidt V, Taddiken, Teichman, Vratil, Wilson, Wysong.

The motion failed and the amendment was rejected.

Senator Journey further amended **SB 587**, as amended by Senate Committee, on page 35, by striking all in lines 14 through 43;

On page 36, by striking all in lines 1 through 13 and inserting:

“New Sec. 31. (a) As used in this section:

(1) “Affiliated person” means

(A) Any member of the immediate family of a state or local official; or

(B) any partnership, firm, corporation or limited liability company with which a state or local official is associated or in which a state or local official has an interest, or any partner, officer, director or employee thereof while the state or local official is associated with such partnership, firm, corporation or company.

(2) “State or local official” means:

(A) Any state officer or employee required to file a written statement of substantial interests pursuant to the state governmental ethics law and any other state officer or employee with responsibility for matters affecting activities or operations of any lottery gaming facility or racetrack gaming facility;

(B) the governor or any full-time professional employee of the office of the governor;

(C) any member of the legislature and any full-time professional employee of the legislature;

(D) any justice of the supreme court, judge of the court of appeals or judge of the district court;

(E) the head of any state agency, the assistant or deputy heads of any state agency, or the head of any division within a state agency; or

(F) any member of the governing body of a city or county where a lottery gaming facility or racetrack gaming facility is located; any municipal or county judge of such city or county; any city, county or district attorney of such city or county; and any member of or attorney for the planning board or zoning board of such city or county and any professional planner or consultant regularly employed or retained by such planning board or zoning board.

(b) No state or local official or affiliated person shall hold, directly or indirectly, an interest in, be employed by, represent or appear for a lottery gaming facility or racetrack gaming facility, or for any lottery gaming facility manager or racetrack gaming facility manager, or any holding or intermediary company with respect thereto, in connection with any cause, application or matter.

No state or local official or affiliated person shall represent, appear for or negotiate on behalf of any person submitting a proposal for a lottery gaming facility or racetrack gaming facility, or on behalf of any lottery gaming facility manager or racetrack gaming facility manager, or any holding or intermediary company with respect thereto, in connection with any cause, application or matter.

(c) No state or local official or affiliated person, within five years immediately subsequent to the termination of the office or employment of the official, shall hold, directly or indirectly, an interest in, be employed by or represent, appear for or negotiate on behalf of any person submitting a proposal for a lottery gaming facility or racetrack gaming facility, or on behalf of any lottery gaming facility manager or racetrack gaming facility manager, in connection with any cause, application or matter, or on behalf of any holding or intermediary company with respect thereto, in connection with any phase of development of a lottery gaming facility or racetrack gaming facility or any other matter whatsoever related to activities or operations of a lottery gaming facility or racetrack gaming facility.

(d) No state or local official shall solicit or accept, directly or indirectly, any complimentary service or discount from any person submitting a proposal for a lottery gaming facility or racetrack gaming facility, or from any lottery gaming facility manager or racetrack gaming facility manager, which such official knows or has reason to know is other than a service or discount that is offered to members of the general public in like circumstance.

(e) No state or local official shall influence, or attempt to influence, by use of official authority, the decision of the Kansas lottery commission, lottery gaming facility review board

or Kansas racing and gaming commission pursuant to this act; the investigation of a proposal for a lottery gaming facility or racetrack gaming facility pursuant to this act; or any proceeding to enforce the provisions of this act or rules and regulations of the Kansas lottery commission or Kansas racing and gaming commission. Any such attempt shall be reported promptly to the attorney general.

(f) Willful violation of this section is a class A misdemeanor.”;

By renumbering the remaining sections accordingly, and **SB 587** be passed as further amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a 2/3 constitutional majority, and **SB 578**, **SB 587** were advanced to Final Action and roll call.

SB 578, An act concerning animals; imposing limitations on ownership and possession of certain animals; requiring registration; providing criminal penalties.

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

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

The bill passed, as amended.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote “Aye” on **SB 578**. I have long supported the regulation of dangerous exotics. I can only express genuine remorse that this time when the name “Haley” is associated with animals in the Kansas Legislature that it is for the future protection of their human counterparts.—DAVID HALEY

SB 587, An act concerning lotteries; enacting the Kansas expanded lottery act; authorizing operation of certain gaming facilities, electronic gaming machines and other lottery games at certain locations; prohibiting certain acts and providing penalties for violations; amending K.S.A. 60-2102, 74-8702, 74-8710, 74-8716, 74-8723, 74-8810, 74-8814, 74-8823, 74-8830, 74-8832 and 74-8838 and K.S.A. 2005 Supp. 12-4516, 19-101a, 21-4619, 74-8711 and 79-4805 and repealing the existing sections.

On roll call, the vote was: Yeas 16, Nays 20, Present and Passing 4, Absent or Not Voting 0.

Yeas: Allen, Barone, Brungardt, Emler, Gilstrap, Haley, Hensley, Kelly, Lee, Morris, Schmidt D, Steineger, Teichman, Umbarger, Vratil, Wysong.

Nays: Apple, Barnett, Brownlee, Bruce, Donovan, Huelskamp, Jordan, Journey, McGinn, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt V, Taddiken, Wagle, Wilson.

Present and Passing: Betts, Francisco, Goodwin, Schodorf.

A constitutional majority having failed to vote in favor of the bill, **SB 587** did not pass.

ORIGINAL MOTION

Having voted on the prevailing side, Senator Journey moved the Senate reconsider its adverse action on **SB 587**. The motion failed.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Friday, March 17, 2006.

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

PAT SAVILLE, *Secretary of the Senate*.

