

Journal of the Senate

FIFTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 22, 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,

I heard a story about a Civil War soldier who tried not to offend either side by wearing a blue shirt and gray trousers. As a result he got shot at by both sides.

The moral of the story is
If you try to please everyone,
You never fail to find yourself
Actually pleasing none.

As a legislator:
I get advice from lots of sources:
Lobbyists, Constituents, and Conferees,
My party, colleagues, and even my spouse
All of whom I'd like to please.

"Just do what you think is right" they say,
But all of them think they're right;
And if "right" is what each person thinks,
There's no such thing as "right".

Lord, help me do what You told me to
In the prayer You taught us to pray.
There are four words within that prayer:
"Thy will be done" we say.

But how do we know what Your will is?
And I can almost hear You reply:
"Search the scriptures and pray.
On these disciplines you can rely."

But how can I be sure it will help?
And again I am sure You'll reply,
"One thing is certain, my child,
You'll never know till You try."

I pray in the Name of Jesus Christ,

AMEN

GUESTS

Ninety-five employees from the Farmers Insurance Group were introduced as guests and welcomed.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following concurrent resolution was introduced and read by title:

SENATE CONCURRENT RESOLUTION No. 1625—

By Senators Morris, D. Schmidt and Hensley

A CONCURRENT RESOLUTION relating to the 2006 regular session of the legislature; extending such session beyond 90 calendar days; and providing for adjournment thereof.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected to the Senate and two-thirds of the members elected to the House of Representatives concurring therein: That the 2006 regular session of the legislature shall be extended beyond 90 calendar days; and

Be it further resolved: That the legislature shall adjourn at the close of business of the daily session convened on March 24, 2006, and shall reconvene at 10:00 a.m. on March 29, 2006; and

Be it further resolved: That the legislature shall adjourn at the close of business of the daily session convened on March 31, 2006, or at the close of business of the daily session convened on April 1, 2006, and shall reconvene at 10:00 a.m. on April 26, 2006; and

Be it further resolved: That the legislature may adjourn and reconvene at any time during the period on and after April 26, 2006, to May 25, 2006, but the legislature shall reconvene at 10:00 a.m. on May 25, 2006, at which time the legislature shall continue in session and shall adjourn *sine die* at the close of business on May 25, 2006; and

Be it further resolved: That the secretary of the senate and the chief clerk of the house of representatives and employees specified by the director of legislative administrative services for such purpose shall attend their duties each day during periods of adjournment, Sundays excepted, for the purpose of receiving messages from the governor and conducting such other business as may be required; and

Be it further resolved: That members of the legislature shall not receive the per diem compensation and subsistence allowances provided for in subsections (a) and (b) of K.S.A. 46-137a for any day within a period in which both houses of the legislature are adjourned for more than two days, Sundays excepted; and

Be it further resolved: That members of the legislature attending a legislative meeting of whatever nature when authorized pursuant to law, or by the Legislative Coordinating Council or by the President of the Senate or the Speaker of the House of Representatives and members of a conference committee attending a meeting of the conference committee authorized by the President of the Senate and the Speaker of the House of Representatives during any period of adjournment for which members are not authorized compensation and allowances pursuant to K.S.A. 46-137a shall receive compensation and travel expenses or allowances as provided by K.S.A. 75-3212 except that the mileage allowance shall be limited during any such period of adjournment to one full trip by the usual route in going to and returning from an authorized meeting.

On emergency motion of Senator D. Schmidt, **SCR 1625** was adopted by voice vote.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 595**.

Federal and State Affairs: **HB 2532**, **HB 2977**.

Utilities: **SR 1824**.

Ways and Means: **SB 594**, **HB 2967**, **HB 3005**.

MESSAGE FROM THE GOVERNOR

SB 354, **SB 453**, **SB 464** approved on March 22, 2006.

MESSAGE FROM THE HOUSE

The House accedes to the request of the Senate for a conference on **House Substitute for SB 35** and has appointed Representatives Hayzlett, Faber and Long as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 76** and has appointed Representatives Hayzlett, Faber and Long as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 261** and has appointed Representatives O'Neal, Kinzer and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 332** and has appointed Representatives Sloan, E. Johnson and Carlin as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 336** and has appointed Representatives Vickrey, Huebert and Sawyer as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 344** and has appointed Representatives Hayzlett, Faber and Long as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 350** and has appointed Representatives C. Holmes, Krehbiel and Kuether as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 374** and has appointed Representatives Hayzlett, Faber and Long as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 434** and has appointed Representatives O'Neal, Kinzer and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 479** and has appointed Representatives O'Neal, Kinzer and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 485** and has appointed Representatives Decker, Horst and Storm as conferees on the part of the House.

Announcing passage of **House Substitute HB 2245; HB 2912, HB 2966, HB 3004.**

Passage of **Substitute SB 264; SB 330, SB 371, SB 550.**

Also, passage of **Substitute SB 253**, as amended, **SB 411**, as amended, **SB 432**, as amended, **SB 553**, as amended.

The House concurs in Senate amendments to **Senate Substitute for HB 2875.**

Rejection of **SB 346.**

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

House Substitute HB 2245; HB 2912, HB 2966, HB 3004 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Jordan moved the Senate concur in house amendments to **SB 139.**

SB 139, An act establishing the Kansas academy of mathematics and science.

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, 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.

Absent or Not Voting: Bruce.

The Senate concurred.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: Many times legislators do not get pats-on-the-back for their work that they do.

I would like to commend one of our members today.

The Senator from Johnson, Senator Jordan's work on **SB 139** will enhance the excellence of our schools in Kansas.—DAVID WYSONG

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **SB 375** and requested a conference committee be appointed.

The Vice President appointed Senators Schodorf, Vratil and Lee as a conference committee on the part of the Senate.

On motion of Senator McGinn the Senate nonconcurrent in the House amendments to **SB 459** and requested a conference committee be appointed.

The Vice President appointed Senators McGinn, Ostmeyer and Kelly as a conference committee on the part of the Senate.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 516. An act concerning public building construction contracts; enacting the Kansas fairness in public construction contract act; amending K.S.A. 75-6402 and repealing the existing section, 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: Apple, Barnett, Barone, Betts, Brownlee, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Kelly, Lee, McGinn, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wilson, Wysong.

Nays: Allen, Journey, Morris, Vratil, Wagle.

Absent or Not Voting: Bruce.

The bill passed, as amended.

SB 590. An act concerning flavored malt beverages; relating to taxation and labeling, 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, 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.

Absent or Not Voting: Bruce.

The bill passed.

HB 2394. An act concerning the procurement of design and construction services for state public improvements contracts; enacting the Kansas alternative project delivery building construction procurement act, was considered on final action.

On roll call, the vote was: Yeas 31, Nays 8, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Brownlee, Huelskamp, Journey, O'Connor, Palmer, Petersen, Pyle, Wagle.

Absent or Not Voting: Bruce.

The bill passed.

HB 2541. An act relating to minors; concerning marriage; relating to the ages of the parties; concerning the donation of blood; amending K.S.A. 38-123a and K.S.A. 2005 Supp. 23-106 and repealing the existing sections, was considered on final action.

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

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

Absent or Not Voting: Bruce.

The bill passed, as amended.

HB 2575. An act concerning education; relating to the Kansas challenge to secondary school pupils act; amending K.S.A. 72-11a03 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, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Lee.

Absent or Not Voting: Bruce.

The bill passed.

HB 2576, An act concerning crimes, punishment and criminal procedure; enacting a lifetime imprisonment sentence for aggravated habitual sex offenders; penalties for certain sex offenses; lifetime parole for certain offenders; duties of the Kansas sentencing commission and the criminal justice coordinating council; tampering with an electronic monitoring device; private correctional facilities; domestic battery; amending K.S.A. 21-3504, 21-3506, 21-3513, 21-3812 and 74-9101 and K.S.A. 2005 Supp. 21-3412a, 21-3447, 21-3502, 21-3516, 21-4706, 22-3717, 22-4903, 74-9501 and 75-52,129 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 25, Nays 14, Present and Passing 0, Absent or Not Voting 1.

Yeas: Allen, Apple, Barnett, Brownlee, Donovan, Gilstrap, Goodwin, Huelskamp, Jordan, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Barone, Betts, Brungardt, Emler, Francisco, Haley, Hensley, Journey, Kelly, Lee, McGinn, Reitz, Steineger, Wagle.

Absent or Not Voting: Bruce.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I am a proponent for the sentencing of aggravated habitual sex offenders. I am also a proponent of freeing up bed space that is currently occupied by drug abuse offenders sentenced under the old sentencing guidelines leaving these beds for our most violent offenders. I am an opponent of the second part of this bill, PRIVATE PRISONS. A number of ethical questions arise when private corporations profit from depriving human beings of their liberty. A natural concern is that the very nature of the arrangement invites these companies to prioritize their profits over the needs of those in their custody. There are numerous examples of private prison corporations cutting corners in order to maximize their earnings, primarily through cutting back on staff pay, training and inmate programming. These actions lead to unrest among inmates, understaffing of facilities, and a prison staff that is unprepared to handle potentially dangerous situations (such as prison escapees). This combination of factors is a threat to the safety of inmates, staff, and Kansans alike.—DONALD BETTS, JR.

Senators Hensley, Kelly, Lee, McGinn and Wagle request the record to show they concur with the "Explanation of Vote" offered by Senator Betts on **HB 2576**.

MR. VICE PRESIDENT: **HB 2576** attempts to put two issues together that, in my opinion, should be kept separate. The first issue deals with sexual predators and my vote on **SB 334** demonstrates my support of that issue. I cannot and will not, however, support the authorization nor use of private prisons. Mr. Vice President, I vote no.—JAY SCOTT EMLER

Senators Barone, Kelly, McGinn and Wagle request the record to show they concur with the "Explanation of Vote" offered by Senator Emler on **HB 2576**.

MR. VICE PRESIDENT: For the second time *this* Session, I vote "No" on **HB 2576**.

This measure is obviously designed to inflate our prison-bed space population beyond reason...or imaginable afford ability.

What conscientious legislator does not want to be tough on sex predators? Certainly, not me. David Haley's record of rooting out and punishing predators of *all* degrees is clear during my last dozen years in the Kansas legislature...

But this bill (**HB 2576**) is as we know only **SB 334** with a vicious twist. Since we cannot bed all of the inmates this bill will create, let's contract out to private prisons.

As a *sane* fiscal conservative, I will not allow my principles to be compromised for the flagrant “crime-du-jour”; sex predators, creating a “stacking” effect we can’t afford. I am not fooled. Hardly content with the performance of our State Department of Corrections, it is too devious, no too diabolical, to abdicate foolishly and knowingly the responsibility of our state to incarcerate and to reform to the more expensive and less responsible privately managed facilities.—DAVID HALEY

MR. VICE PRESIDENT: **HB 2576** is unnecessary and denied the Senate the opportunity to see an alternative to **SB 334**. I support **SB 334** and seek to protect this State’s most vulnerable crime victims. The House position offered similar protection with reduced costs and efficient use of our resources. Others attempted to use this bill to promote other issues unrelated to the intent of this bill and the bill now has two subjects. Not only does **HB 2576** contain **SB 334** but it also includes the establishment of private prisons. Our D.O.C. is a well run efficient agency. Private prisons save money by cutting necessary expenses, food, medical care, employee pay and training are just a few areas other states show us what a bad idea this is. In recent years nine states have terminated contracts with private prison companies because of abuse, failing to meet contract obligations and increasing costs beyond those originally promised.—PHILLIP B. JOURNEY

Senators Hensley, Kelly, McGinn and Wagle request the record to show they concur with the “Explanation of Vote” offered by Senator Journey on **HB 2576**.

HB 2634, An act concerning certain school districts; relating to the assessed valuation 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, 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.

Absent or Not Voting: Bruce.

The bill passed, as amended.

HB 2658, An act relating to gift certificates and gift cards; concerning certain restrictions, 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, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, McGinn, Morris, O’Connor, Palmer, Petersen, Pine, Reitz, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Ostmeyer, Pyle, Schmidt D.

Absent or Not Voting: Bruce.

The bill passed, as amended.

HB 2669, An act concerning automatic enrollment retirement plans; relating to the withholding of wages; amending K.S.A. 44-319 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, 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.

Absent or Not Voting: Bruce.

The bill passed.

Sub HB 2695, An act concerning the Kansas comprehensive grant program; relating to persons eligible for grants thereunder; amending K.S.A. 74-32, 120 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, Brungardt, Donovan, 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.

Nays: Emler.

Absent or Not Voting: Bruce.

The substitute bill passed.

HB 2772, An act concerning employment; relating to the employment relationship between an owner-operator and a licensed motor carrier; relating to misclassification of employees; amending K.S.A. 2005 Supp. 79-3234 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, 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.

Absent or Not Voting: Bruce.

The bill passed, as amended.

HB 2858, An act concerning service contracts; pertaining to the definition thereof; amending K.S.A. 2005 Supp. 40-201a 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, 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.

Absent or Not Voting: Bruce.

The bill passed.

HB 2878, An act relating to motor fuel permits; providing for 24-hour or 72-hour permits; amending K.S.A. 2005 Supp. 79-34,118 and 79-34,122 and repealing the existing sections, was considered on final action.

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

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

Absent or Not Voting: Bruce.

The bill passed, as amended.

REPORT ON ENGROSSED BILLS

SB 578 reported correctly engrossed March 22, 2006.

Also: **SB 362** correctly re-engrossed March 22, 2006.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HB 2928**, as amended by House Committee, be amended on page 1, in line 27, by striking "obtain or"; by striking all in lines 28 through 37; in line 38, by striking all preceding the period and inserting ":

(1) Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order or other injunctive relief to help ensure the health, safety or welfare of the victim or the victim's child or children;

(2) seek medical attention for injuries caused by domestic violence or sexual assault;

(3) obtain services from a domestic violence shelter, domestic violence program or rape crisis center as a result of domestic violence or sexual assault; or

(4) to settle matters, including, but not limited to, court appearances in the aftermath of domestic violence or sexual assault”;

Also on page 1, in line 42, following the period by inserting “Within 48 hours after returning from the requested time off, the employee shall provide documentation which may include, but is not limited to, that described in subsection (b)(2) to support taking time off for a purpose set forth in subsection (a).”;

On page 2, in line 1, by striking all after “within”; in line 2, by striking all preceding “absence” and inserting “48 hours after the beginning of the unscheduled”; in line 16, preceding the period by inserting “, as well as the confidentiality of any supporting documentation provided by the employee to the employer relating to a purpose set forth in subsection (a)”;

in line 17, by striking all following “use”; by striking all in lines 18 through 24; in line 25, by striking all preceding the period and inserting “any accrued paid leave or, if paid leave is unavailable to the employee, unpaid leave, not to exceed a total of eight days per calendar year, as time off for a purpose specified in subsection (a), unless a longer period of time is otherwise available to an employee under the applicable terms of employment or is provided by a collective bargaining agreement”;

On page 4, after line 13, by inserting:

“Sec. 3. On and after January 1, 2007, the legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, trafficking or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual assault, trafficking or stalking, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, trafficking or stalking, and to enable state and local agencies to accept a program participant’s use of an address designated by the secretary of state as a substitute mailing address.

Sec. 4. On and after January 1, 2007, unless the context clearly requires otherwise, as used in this act:

- (a) “Abuse” means:
- (1) Causing or attempting to cause physical harm;
 - (2) placing another person in fear of imminent physical harm;
 - (3) causing another person to engage involuntarily in sexual relations by force, threats or duress, or threatening to do so;
 - (4) engaging in mental abuse, which includes threats, intimidation and acts designed to induce terror;
 - (5) depriving another person of health care, housing, food or other necessities of life; or
 - (6) restraining the liberty of another.
- (b) “Confidential address” means a residential street address, school street address or work street address of an individual, as specified on the individual’s application to be a program participant under this act.
- (c) “Confidential mailing address” means an address that is recognized for delivery by the United States postal service.
- (d) “Domestic violence” means abuse committed against a victim or the victim’s spouse or dependent child by:
- (1) A current or former spouse of the victim;
 - (2) a person with whom the victim shares parentage of a child in common;
 - (3) a person who is cohabitating with, or has cohabitated with, the victim;
 - (4) a person who is related by blood or marriage; or
 - (5) a person with whom the victim has or had a dating or engagement relationship.
- (e) “Program participant” means a person certified as a program participant under section 3, and amendments thereto.
- (f) “Enrolling agent” means state and local agencies, law enforcement offices, nonprofit agencies and any others designated by the secretary of state that provide counseling and shelter services to victims of domestic violence, sexual assault, trafficking or stalking.
- (g) “Sexual assault” means an act which if committed in this state would constitute any crime defined in article 35 of chapter 21 of the Kansas Statutes Annotated.

(h) "Stalking" means an act which if committed in this state would constitute "stalking" as defined by K.S.A. 60-31a01, and amendments thereto.

(i) "Trafficking" means an act which if committed in this state would constitute the crime of trafficking as defined by K.S.A. 2005 Supp. 21-3446, and amendments thereto.

Sec. 5. On and after January 1, 2007: (a) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, may apply by and through an enrolling agent to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person. Program participants shall not apply directly to the secretary of state. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state signed by the applicant and enrolling agent under penalty of perjury and providing:

(1) A statement by the applicant that the applicant has good reason to believe (i) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, trafficking or stalking; and (ii) that the applicant fears for the applicant's safety or the applicant's children's safety or the safety of the minor or incapacitated person on whose behalf the application is made;

(2) a designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(3) the confidential mailing address where the applicant can be contacted by the secretary of state, and the phone number or numbers where the applicant can be called by the secretary of state;

(4) the confidential address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, trafficking or stalking;

(5) the signature of the applicant and of any individual or representative of any enrolling agent who assisted in the preparation of the application, and the date on which the applicant signed the application.

(b) Applications shall be filed in accordance with procedures prescribed by the secretary of state.

(c) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The secretary of state shall by rule and regulation establish a renewal procedure.

(d) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be punishable under K.S.A. 21-3711, and amendments thereto, or other applicable statutes.

Sec. 6. On and after January 1, 2007: (a) If the program participant obtains a legal name change after being certified as a program participant, the secretary of state shall cancel certification of the program participant.

(b) The secretary of state may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the secretary of state with seven days' prior notice of the change of address.

(c) The secretary of state may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

(d) The secretary of state shall cancel certification of a program participant who applies using false information.

Sec. 7. On and after January 1, 2007: (a) A program participant may request that state and local agencies use the address designated by the secretary of state as the participant's address. When creating a new public record or amending or updating an existing record, state and local agencies shall accept the address designated by the secretary of state as a program participant's substitute address, unless the secretary of state has determined that:

(1) The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this act; and

(2) this address will be used only for those statutory and administrative purposes.

(b) A program participant may use the address designated by the secretary of state as the participant's work address.

(c) The office of the secretary of state shall forward all first class mail, and other items designated by rule and regulation, to the appropriate program participants.

Sec. 8. On and after January 1, 2007: (a) The secretary of state is authorized to adopt rules and regulations for the proper implementation of this act.

(b) The secretary of state shall prescribe by rule and regulation voting procedures to maintain confidentiality of the addresses of program participants.

Sec. 9. On and after January 1, 2007, the secretary of state shall not make any records in a program participant's file available for inspection or copying, other than the address designated by the secretary of state, except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency in accordance with procedures prescribed by rules and regulations;

(b) if directed by a court order, to a person identified in the order; or

(c) to verify the participation of a specific program participant, in which case the secretary may only confirm participation in the program.

Sec. 10. On and after January 1, 2007, the secretary of state shall designate enrolling agents to assist persons applying to be program participants. The secretary of state may collaborate with enrolling agents to develop a training curriculum. Any assistance rendered to applicants by the office of the secretary of state or its designees shall not be construed as legal advice.”;

By renumbering remaining section accordingly;

In the title, in line 13, by striking all after “concerning”; in line 14, by striking “certain purposes”; also in line 14, before the period, by inserting “victims; relating to domestic violence, sexual assault, trafficking or stalking; requiring employers to allow leave for certain purposes; address confidentiality; authorizing the secretary of state to perform certain duties and functions”; and the bill be passed as amended.

Committee on **Elections and Local Government** recommends **SB 545** be amended on page 3, in line 17, by striking “VIPS” and inserting “VIPS/CAMA”; in line 28, by striking “VIPS” and inserting “VIPS/CAMA”; and the bill be passed as amended.

Also, **HB 2582**, as amended by House Committee of the Whole, be amended on page 2, by striking all in lines 9 through 17;

By renumbering the remaining section accordingly;

In the title, in line 11, by striking all after “covenants”; in line 12, by striking all before the period; and the bill be passed as amended.

HB 2667, as amended by House Committee, be amended on page 3, in line 23, preceding the period by inserting “except that no petition for the recall of a member of a recreation commission may be filed during the last 200 days of the term of such member”; and the bill be passed as amended.

Committee on **Federal and State Affairs** begs leave to submit the following report:

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

By the Governor:

Commander, 35th Infantry Division: K.S.A. 48-205, 48-208

Brigadier General Marvin W. Pierson, serves at the pleasure of the Governor
Assistant Division Commander, 35th Infantry Division: K.S.A. 48-205, 48-208

Colonel John E. Davoren, serves at the pleasure of the Governor

Chief of Staff, Kansas Air National Guard: K.S.A. 48-205, 48-208

Colonel Edward R. Flora, serves at the pleasure of the Governor

Committee on **Financial Institutions and Insurance** recommends **HB 2366**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2366,” as follows:

“SENATE Substitute for HOUSE BILL No. 2366

By Committee on Financial Institutions and Insurance

“AN ACT concerning insurance; pertaining to certain requirements regarding casualty insurance companies filing rates, forms and premiums; pertaining to certain penalties under the Kansas automobile injury reparations act; pertaining to certain appeal rights

regarding adverse health care decisions under health insurance policies; amending K.S.A. 40-954, 40-955 and 40-3104 and K.S.A. 2005 Supp. 40-216 and repealing the existing sections.”;

and the substitute bill be passed.

Also, **SB 592** be amended on page 1, in line 18, by striking all after “as”; in line 19, by striking all before the period and inserting “in effect on July 1, 2006”; in line 20, by striking “s.”; in line 21, by striking “amended” and inserting “in effect on July 1, 2006”;

On page 2, in line 13, by striking “s.”; also in line 13, by striking “amended” and inserting “in effect on July 1, 2006”; in line 37, by striking “as”; in line 38, by striking “amended” and inserting “published”; also in line 38, before the period, by inserting “and in effect on July 1, 2006”;

On page 7, following line 25, by inserting:

“(e) In a civil action alleging an asbestos claim based upon mesothelioma, no prima facie showing is required.

(f) Evidence relating to physical impairment under this section, including pulmonary function testing and diffusing studies, shall:

(1) Comply with the technical recommendations for examinations, testing procedures, quality assurance, quality control and equipment of the AMA guides to the evaluation of permanent impairment, as set forth in 2d C.F.R. Pt. 404, Subpt. P. Appl., Part A, Sec. 3.00 E. and F., and the interpretive standards set forth in the official statement of the American Thoracic Society entitled “Lung function testing: selection of reference values and interpretive strategies” as published in American Review of Respiratory Disease, 1991, 144:1202-1218.

(2) Not be obtained through testing or examinations that violate any applicable law, regulation, licensing requirement, or medical code of practice.

(3) Not be obtained under the condition that the exposed person retain legal services in exchange for the examination, test or screening.

(g) Presentation of prima facie evidence meeting the requirements of section 3, and amendments thereto, shall not:

(A) Result in any presumption at trial that the exposed person is impaired by an asbestos-related condition.

(B) Be conclusive as to the liability of any defendant.

(C) Be admissible at trial.”;

Also on page 7, in line 38, by striking “(g)” and inserting “(e)”; and the bill be passed as amended.

HB 2691 be amended on page 3, after line 9, by inserting the following:

“Sec. 2. K.S.A. 40-955 is hereby amended to read as follows: 40-955. (a) Every insurer shall file with the commissioner, except as to inland marine risks where general custom of the industry is not to use manual rates or rating plans, every manual of classifications, rules and rates, every rating plan, policy form and every modification of any of the foregoing which it proposes to use. Every such filing shall indicate the proposed effective date and the character and extent of the coverage contemplated and shall be accompanied by the information upon which the insurer supports the filings. A filing and any supporting information shall be open to public inspection after it is filed with the commissioner. An insurer may satisfy its obligations to make such filings by authorizing the commissioner to accept on its behalf the filings made by a licensed rating organization or another insurer. Nothing contained in this act shall be construed to require any insurer to become a member or subscriber of any rating organization.

(b) Any rate filing for the basic coverage required by K.S.A. 40-3401 et seq. and amendments thereto, loss costs filings for workers compensation, and rates for assigned risk plans established by article 21 of chapter 40 of the Kansas Statutes Annotated or rules and regulations established by the commissioner shall require approval by the commissioner before its use by the insurer in this state. Policy forms shall require approval by the commissioner before use by insurers in this state, consistent with the requirements of K.S.A. 40-216 and amendments thereto. As soon as reasonably possible after such filing has been made, the commissioner shall in writing approve or disapprove the same, except that any filing shall be deemed approved unless disapproved within 30 days of receipt of the filing.

(c) Any other rate filing, except personal lines filings, shall become effective on filing or any prospective date selected by the insurer, subject to the commissioner disapproving the same if the rates are determined to be inadequate, excessive, unfairly discriminatory or otherwise fails to meet the requirements of this act. Personal lines rate filings shall be on file for a waiting period of 30 days before becoming effective, subject to the commissioner disapproving the same if the rates are determined to be inadequate, excessive, unfairly discriminatory or otherwise fail to meet requirements of this act. The term "personal lines" shall mean insurance for noncommercial automobile, homeowners, dwelling fire-and-renters insurance policies, as defined by the commissioner by rules and regulations. A filing complies with this act unless it is disapproved by the commissioner within the waiting period or pursuant to subsection (e).

(d) In reviewing any rate filing the commissioner may require the insurer or rating organization to provide, at the insurer's or rating organization's expense, all information necessary to evaluate the reasonableness of the filing, to include payment of the cost of an actuary selected by the commissioner to review any rate filing, if the department of insurance does not have a staff actuary in its employ.

(e) If a filing is not accompanied by the information required by this act, the commissioner shall promptly inform the company or organization making the filing. The filing shall be deemed to be complete when the required information is received by the commissioner or the company or organization certifies to the commissioner the information requested is not maintained by the company or organization and cannot be obtained. If the commissioner finds a filing does not meet the requirements of this act, the commissioner shall send to the insurer or rating organization that made the filing, written notice of disapproval of the filing, specifying in what respects the filing fails to comply and stating the filing shall not become effective. If at any time after a filing becomes effective, the commissioner finds a filing does not comply with this act, the commissioner shall after a hearing held on not less than 10 days' written notice to every insurer and rating organization that made the filing issue an order specifying in what respects the filing failed to comply with the act, and stating when, within a reasonable period thereafter, the filing shall be no longer effective. Copies of the order shall be sent to such insurer or rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

In the event an insurer or organization has no legally effective rate because of an order disapproving rates, the commissioner shall specify an interim rate at the time the order is issued. The interim rate may be modified by the commissioner on the commissioner's own motion or upon motion of an insurer or organization. The interim rate or any modification thereof shall take effect prospectively in contracts of insurance written or renewed 15 days after the commissioner's decision setting interim rates. When the rates are finally determined, the commissioner shall order any overcharge in the interim rates to be distributed appropriately, except refunds to policyholders the commissioner determines are de minimis may not be required.

Any person or organization aggrieved with respect to any filing that is in effect may make written application to the commissioner for a hearing thereon, provided the insurer or rating organization that made the filing may not proceed under this subsection. The application shall specify the grounds to be relied on by the applicant. If the commissioner finds the application is made in good faith, that the applicant would be so aggrieved if the applicant's grounds are established, and that such grounds otherwise justify holding such a hearing, the commissioner shall, within 30 days after receipt of the application, hold a hearing on not less than 10 days' written notice to the applicant and every insurer and rating organization that made such filing.

Every rating organization receiving a notice of hearing or copy of an order under this section, shall promptly notify all its members or subscribers affected by the hearing or order. Notice to a rating organization of a hearing or order shall be deemed notice to its members or subscribers.

(f) No insurer shall make or issue a contract or policy except in accordance with filings which have been filed or approved for such insurer as provided in this act.

(1) *On an application for personal motor vehicle insurance where the applicant has applied for collision or comprehensive coverage, the applicant shall be allowed to identify a lienholder listed on the certificate of title for the motor vehicle described in the application.*

(2) *On an application for property insurance on real property, the applicant shall be allowed to identify a mortgagee listed on a mortgage for the real property described in the application.*

(g) The commissioner may adopt rules and regulations to allow suspension or modification of the requirement of filing and approval of rates as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used.

(h) Except for workers compensation and employer's liability line, the following categories of commercial lines risks are considered special risks which are exempt from the filing requirements in this section: (1) Risks that are written on an excess or umbrella basis; (2) commercial risks, or portions thereof, that are not rated according to manuals, rating plans, or schedules including "a" rates; (3) large risks; and (4) special risks designated by the commissioner, including but not limited to risks insured under highly protected risks rating plans, commercial aviation, credit insurance, boiler and machinery, inland marine, fidelity, surety and guarantee bond insurance risks.

(i) For the purposes of this subsection, "large risk" means: (1) An insured that has total insured property values of \$5,000,000 or more; (2) an insured that has total annual gross revenues of \$10,000,000 or more; or (3) an insured that has in the preceding calendar year a total paid premium of \$50,000 or more for property insurance, \$50,000 or more for general liability insurance, or \$100,000 or more for multiple lines policies.

(j) The exemption for any large risk contained in subsection (h) shall not apply to workers compensation and employer's liability insurance, insurance purchasing groups, and the basic coverage required by K.S.A. 40-3401 et seq. and amendments thereto.

(k) Underwriting files, premium, loss and expense statistics, financial and other records pertaining to special risks written by any insurer shall be maintained by the insurer and shall be subject to examination by the commissioner.

Sec. 3. K.S.A. 19-621 is hereby amended to read as follows: 19-621. Within ~~ten (10)~~ 10 days after receiving a certificate of the order ~~appointing him or her of appointment to the office specified in K.S.A. 19-620, and amendments thereto,~~ it shall be the duty of such ~~person appointee~~ *person* to file with the district clerk of ~~his or her such appointee's~~ county a bond, with ~~at least two sufficient sureties a sufficient surety,~~ in the sum of ~~twenty thousand dollars (\$20,000)~~ \$20,000, to the proper county, conditioned that ~~he or she such appointee~~ will faithfully perform the duties of ~~his or her office~~ *the office of county auditor*, which bond and sureties thereon shall be approved by the district court of the proper county, which approval shall be made part of the records of ~~said such~~ court. A bond conditioned as hereinafore recited, and executed by a bonding company authorized to do business under the laws of this state, shall upon approval of the district judge be construed to be and constitute sufficient surety, and the premium on ~~said such~~ bond shall be paid by the county.

Sec. 4. K.S.A. 32-950 is hereby amended to read as follows: 32-950. Any action of the secretary pursuant to K.S.A. 32-949, ~~and amendments thereto,~~ is subject to review in accordance with the act for judicial review and civil enforcement of agency actions upon the petitioner's filing, with the clerk of the reviewing court, a bond with ~~two or more sufficient sureties a sufficient surety,~~ conditioned on the payment of all costs of the review if the decision of the secretary is sustained.

Sec. 5. K.S.A. 41-805 is hereby amended to read as follows: 41-805. (1) Any room, house, building, boat, vehicle, airplane, structure or place of any kind where alcoholic liquors are sold, manufactured, bartered or given away, in violation of this act, or any building, structure or boat where persons are permitted to resort for the purpose of drinking alcoholic liquors, in violation of this act, or any place where such liquors are kept for sale, barter or gift, in violation of this act, and all such liquors, and all property kept in and used in maintaining such a place, are each and all of them hereby declared to be a common nuisance. Any person who maintains or assists in maintaining such common nuisance is guilty of a misdemeanor punishable by imprisonment for not more than one year or by a fine not exceeding \$25,000, or by both. If the court finds that the owner of real property knew or should have known

under the circumstances of the maintenance of a common nuisance on such property, contrary to the liquor laws of this state, and did not make a bona fide attempt to abate such nuisance under the circumstances, such property shall be subject to a lien for, and may be sold to pay all fines and costs assessed against the occupant of such building or premises for any violation of this act; and such lien shall be immediately enforced by civil action, in any court having jurisdiction, by the county or district attorney of the county wherein such building or premises may be located, or by the attorney for the director, when ordered by the director. For purposes of this section, evidence of a bona fide attempt to abate such nuisance by the owner of the property shall include, but not be limited to, the filing of a written report, by such owner or at such owner's direction, to the local law enforcement agency that the property is suspected by the owner of the property of being used in maintaining a common nuisance as set forth in K.S.A. 22-3901, and amendments thereto, contrary to the liquor laws of this state. If a tenant of any building or premises uses the building or premises, or any part thereof, in maintaining a common nuisance as hereinbefore defined, or knowingly permits such use by another, such use shall render void the lease under which the tenant holds, and shall cause the right of possession to revert to the owner or lessor, who may make immediate entry upon the premises, or may invoke the remedy provided for the forcible detention thereof.

(2) Upon the filing of a complaint or information charging that a vehicle or airplane is a common nuisance as above declared, a warrant shall be issued authorizing and directing the officer to whom it is directed to arrest the person or persons described in the complaint or information or the person or persons using the vehicle or airplane in violation of this act and to seize and take into the officer's custody all such vehicles and airplanes so used which the officer finds, and safely keep them subject to the order of the court. In the complaint or information it shall not be necessary to accurately describe the vehicle or airplane so used, but only such description shall be necessary as will enable the officer executing the warrant to identify it properly.

Whenever any vehicles or airplanes shall be seized under any such warrant, whether an arrest has been made or not, a notice shall issue within 48 hours after the return of the warrant in the same manner as a summons, directed to the defendant in such action and to all persons claiming any interest in such vehicles or airplanes, fixing a time, to be not less than 60 days, and place at which all persons claiming any interest therein may appear and answer the complaint made against such vehicles or airplanes and show cause why they should not be adjudged forfeited and sold as hereinafter provided. Such notice shall be served upon the defendant in the action in the same manner as a summons if the defendant be found within the jurisdiction of the court, and a copy thereof shall also be posted in one or more public places in the county in which the cause is pending. If at the time for filing answer the notice has not been duly served or sufficient cause appear, the time for answering shall be extended by the court and such other notice issued as will supply any defect in the previous notice and give reasonable time and opportunity for all persons interested to appear and answer. At or before the time fixed by notice, any person claiming an interest in the vehicles or airplanes seized, may file an answer in writing, setting up a claim thereto, and shall thereupon be admitted as a party defendant to the proceedings against such vehicles or airplanes. The complaint or information and answer or answers that may be filed shall be the only pleadings required. At the time fixed for answer, or at any other time to be fixed by the court, a trial shall be held in a summary manner before the court on the allegation of the complaint or information against the property seized. Whether any answer shall be filed or not, it shall be the duty of the county or district attorney to appear and adduce evidence in support of such allegation.

(3) If the court finds that such vehicles or airplanes were at the time a common nuisance, as defined in this section, the court shall adjudge forfeited so much thereof as the court finds to be a common nuisance, and shall order the officer in whose custody they are to sell them publicly. The officer shall cause notice to be given by publication for at least one week in the official county paper of the time and place of the sale of the property and shall file in the court a return showing the sale of the property and the amount received therefor and shall pay the same into court to await the order of the court. The court, if it approves such sale, shall declare forfeited the proceeds of the sale and, after paying out of the proceeds

of the sale the costs of the action, including costs of sale and the keeping and maintenance of the property, shall out of the balance of the money received from the property at the sale, pay all liens, according to their priorities, which are established by intervention or otherwise at the hearing or another proceeding brought for that purpose as being bona fide and for value and as having been created without the lienor having any notice that the vehicle or airplane was being used in so violating the provisions of this act and without the lienor having any notice at any time subsequent to the creation of the lien and prior to the seizure in time to have protected the lien that the vehicle was so being used. The balance remaining shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto, except that, if upon proper proof, a lien as herein provided is established in excess of the value of the vehicle as found by the court, the court may order, without sale, the surrender of such vehicle to such lienor upon the payment of all costs as is herein provided.

(4) Either the state or any defendant or other person claiming the vehicle or airplane seized, or an interest therein, may appeal from the judgment of the court in any such proceedings against the property seized in the manner provided for taking appeals in criminal cases. Any claimant of such property who appeals, in order to stay proceedings, must enter into an undertaking with ~~two or more sureties~~ *a sufficient surety* to the state of Kansas, to be approved by the judge of the district court, in the sum of not less than \$100 nor less than double the amount of the value of the property as fixed by the court and the costs adjudged against the property, conditioned that the claimant will prosecute the appeal without unnecessary delay, and if judgment is entered against the claimant on appeal, the claimant will satisfy the judgment and costs, and no bond shall be required for an appeal by the state, and such appeal shall stay the execution of the judgment.

Sec. 6. K.S.A. 58-2802 is hereby amended to read as follows: 58-2802. (a) No license shall be issued to any applicant until the applicant files with the board a bond and a policy of insurance as provided in this section. The bond shall be in an amount established by the board of not less than \$25,000. Such insurance shall be a policy of errors and omissions in an amount not less than \$25,000, with a deductible permitted of not to exceed 10% of the amount of the insurance coverage, as determined by the abstracters' board of examiners, and shall be issued by a company authorized to transact business in the state of Kansas.

(b) If the \$25,000 liability insurance is unavailable to any applicant, the abstracters' board of examiners may issue a license to the applicant upon (1) the applicant furnishing a bond in the amount of the total of both the insurance coverage required under subsection (a) and the amount of the bond required from the applicant by the board of examiners under subsection (a). Such bond may be furnished in lieu of filing both the insurance policy and the bond required under subsection (a). The applicant shall file a copy of such bond, certified by the chairperson of the board as true and correct, with the county clerk of the county for which the bond was given. The bond shall be executed by a surety company authorized to transact business in this state; or (2) the applicant furnishing a bond signed by ~~three or more good and sufficient sureties~~ *a sufficient surety* to be approved by the board of examiners. The bond shall be in the penal sum of not less than \$5,000 conditioned for payment by the applicant of any and all actual damages that may be sustained or may accrue to any person, firm, corporation or body politic by reason of or on account of any error, deficiency or mistake in any abstract or continuation thereof made and issued by the applicant. A cause of action for such damages shall not be deemed to have accrued until the error, deficiency or mistake giving rise to the cause of action first causes substantial injury or, if the fact of injury is not reasonably ascertainable until some time after the initial error, deficiency or mistake, the period of limitation shall not commence until the fact of injury becomes reasonably ascertainable to the injured party. In no event shall the period of limitation be extended more than 15 years beyond the time of the act giving rise to the cause of action.

(c) In cases where there is filed of record a right-of-way or other easement grant over or under lands for public utility or private or common carrier purposes if the title of the instrument or proceeding in condemnation granting or creating right-of-way or easement, together with a description of the character thereof, the names of the parties thereto, and index and date of recording, is shown on the abstract, it shall not be necessary to show on the abstract (1) any subsequent mortgages, deeds of trust or other encumbrances of the right-of-way or easement rights or of fixtures located thereon owned by the holder of the

right-of-way or easement, or (2) any subsequent releases of such mortgages, deeds of trust or encumbrances, or (3) any documents showing the corporate character of such owner or of any mortgagee or trustee of such right-of-way or easement. It shall not be necessary to show on the abstract any privileged or confidential document or proceeding which is not open for inspection on file or of record in the district court and a failure to show such matters shall not be deemed incompleteness, imperfection or error on the part of those compiling the abstract. No abstracter shall be held liable for not showing such matters and, if the abstracter does show them, the abstracter shall not be permitted to charge compensation therefor unless express request to show any or all of such matters is made in writing to the abstracter.

(d) Any licensee doing business in more than one county shall furnish an additional bond for each county where the licensee does business to be executed, approved and filed as required by the board. Any license issued under the provisions of this act shall be in a form approved by the board except that such form shall recite that such bond has been filed and approved. No licensee, unless duly licensed to practice law, shall for hire examine and furnish an opinion on an abstract of title nor draw wills or other legal instruments not in connection with the licensee's own business, and for violation thereof, the license shall be revoked.

Sec. 7. K.S.A. 68-1402 is hereby amended to read as follows: 68-1402. The reconstruction, improvement, removal and relocation of bridges or approaches thereto provided for in this act shall be by written contract separately made and awarded as to each bridge, to the lowest responsible bidder, upon sealed proposals, based upon plans and specifications therefor on file in the office of the county clerk of the county. The county surveyor of the county, when so directed to do by the board of county commissioners, shall make all necessary surveys and investigations and prepare plans and specifications for the reconstruction, improvement, removal or relocation of any bridge or the approaches thereto, and grade separation structures connected therewith, together with an estimate under oath of the cost thereof, and file such plans, specifications and estimate in the office of the county clerk of the county. No contract shall be awarded for any such improvement at a price in excess of said estimated cost.

The board of county commissioners shall have power, if they deem it necessary, to employ engineers to assist the county surveyor in preparing plans and specifications or superintending the construction of such improvements, and to pay such engineers out of the proceeds of bonds issued on account of the cost thereof. After considering and approving plans and specifications, prepared and filed as aforesaid, the board of county commissioners shall advertise for three consecutive weeks in the official county paper for sealed proposals for the construction of such improvements or works, in accordance with the plans and specifications therefor. The board of county commissioners shall require any contractor to whom any such contract is awarded to enter into a written contract, and to secure the performance thereof by a bond signed by ~~two or more surety companies~~ *a surety company*. All bids for the construction of any such improvement or work shall be presented simultaneously to the board of county commissioners and opened forthwith by them, in the presence of the public and all bidders present.

Sec. 8. K.S.A. 75-110 is hereby amended to read as follows: 75-110. The governor may distribute the quota of arms and military equipments which the state may receive from the government of the United States. The governor shall require the officers to whom such arms or equipments are distributed and delivered to execute to the state of Kansas a bond, with ~~two sufficient sureties~~ *a sufficient surety*, to be approved by the governor, in a sum not less than double the value of said arms or equipments, conditioned for the safekeeping and delivery of the same on the order of the governor.

Sec. 9. K.S.A. 78-102 is hereby amended to read as follows: 78-102. Whenever any recognizance, stipulation, bond or undertaking conditioned for faithful performance of any contract of duty, or for the doing or refraining from doing anything in such recognizance, stipulation, bond or undertaking specified, is by the law of the state of Kansas required or permitted to be given with one surety, or with ~~two or more sureties~~ *a sufficient surety*, the execution of the same or the guaranteeing of the performance of the conditions thereof shall be sufficient when executed or guaranteed solely by a corporation, incorporated under

the laws of the United States, or of any state, having power to guarantee the fidelity of persons holding positions of public or private trust and to execute and guarantee bonds and undertakings in judicial proceedings. ~~Provided, That such corporation, however, such corporation must~~ be authorized to do business in the state of Kansas, and ~~that~~ such recognizance, stipulation, bond or undertaking *must* be approved by the head of the department, court, judge, officer, board or body executive, legislative or judicial required to approve or accept the same. ~~And provided further, That~~ It shall be no defense in a suit to recover on such recognizance, stipulation, bond or undertaking, that any false statement or misrepresentation were made in the application therefor by the person or party named as principal therein or giving the same.

Sec. 10. K.S.A. 40-3209 is hereby amended to read as follows: 40-3209. (a) All forms of group and individual certificates of coverage and contracts issued by the organization to enrollees or other marketing documents purporting to describe the organization's health care services shall contain as a minimum:

(1) A complete description of the health care services and other benefits to which the enrollee is entitled;

(2) The locations of all facilities, the hours of operation and the services which are provided in each facility in the case of individual practice associations or medical staff and group practices, and, in all other cases, a list of providers by specialty with a list of addresses and telephone numbers;

(3) the financial responsibilities of the enrollee and the amount of any deductible, copayment or coinsurance required;

(4) all exclusions and limitations on services or any other benefits to be provided including any deductible or copayment feature and all restrictions relating to pre-existing conditions;

(5) all criteria by which an enrollee may be disenrolled or denied reenrollment;

(6) service priorities in case of epidemic, or other emergency conditions affecting demand for medical services;

(7) in the case of a health maintenance organization, a provision that an enrollee or a covered dependent of an enrollee whose coverage under a health maintenance organization group contract has been terminated for any reason but who remains in the service area and who has been continuously covered by the health maintenance organization *or under any group policy providing similar benefits which it replaces* for at least three months *immediately prior to termination* shall be entitled to obtain a converted contract or have such coverage continued under the group contract for a period of six months following which such enrollee or dependent shall be entitled to obtain a converted contract in accordance with the provisions of this section. The converted contract shall provide coverage at least equal to the conversion coverage options generally available from insurers or mutual non-profit hospital and medical service corporations in the service area at the applicable premium cost. The group enrollee or enrollees shall be solely responsible for paying the premiums for the alternative coverage. The frequency of premium payment shall be the frequency customarily required by the health maintenance organization, mutual nonprofit hospital and medical service corporation or insurer for the policy form and plan selected, except that the insurer, mutual nonprofit hospital and medical service corporation or health maintenance organization shall require premium payments at least quarterly. The coverage shall be available to all enrollees of any group without medical underwriting. The requirement imposed by this subsection shall not apply to a contract which provides benefits for specific diseases or for accidental injuries only, nor shall it apply to any employee or member or such employee's or member's covered dependents when:

(A) Such person was terminated for cause as permitted by the group contract approved by the commissioner;

(B) any discontinued group coverage was replaced by similar group coverage within 31 days; or

(C) the employee or member is or could be covered by any other insured or noninsured arrangement which provides expense incurred hospital, surgical or medical coverage and benefits for individuals in a group under which the person was not covered prior to such termination. Written application for the converted contract shall be made and the first premium paid not later than 31 days after termination of the group coverage or receipt of

notice of conversion rights from the health maintenance organization, whichever is later, and shall become effective the day following the termination of coverage under the group contract. The health maintenance organization shall give the employee or member and such employee's or member's covered dependents reasonable notice of the right to convert at least once within 30 days of termination of coverage under the group contract. The group contract and certificates may include provisions necessary to identify or obtain identification of persons and notification of events that would activate the notice requirements and conversion rights created by this section but such requirements and rights shall not be invalidated by failure of persons other than the employee or member entitled to conversion to comply with any such provisions. In addition, the converted contract shall be subject to the provisions contained in paragraphs (2), (4), (5), (6), (7), (8), (9), (13), (14), (15), (16), (17) and (19) of subsection (j) of K.S.A. 40-2209, and amendments thereto;

(8) (A) group contracts shall contain a provision extending payment of such benefits until discharged or for a period not less than 31 days following the expiration date of the contract, whichever is earlier, for covered enrollees and dependents confined in a hospital on the date of termination;

(B) a provision that coverage under any subsequent replacement contract that is intended to afford continuous coverage will commence immediately following expiration of any prior contract with respect to covered services not provided pursuant to subparagraph (8)(A); and

(9) an individual contract shall provide for a 10-day period for the enrollee to examine and return the contract and have the premium refunded, but if services were received by the enrollee during the 10-day period, and the enrollee returns the contract to receive a refund of the premium paid, the enrollee must pay for such services.

(b) No health maintenance organization or medicare provider organization authorized under this act shall contract with any provider under provisions which require enrollees to guarantee payment, other than copayments and deductibles, to such provider in the event of nonpayment by the health maintenance organization or medicare provider organization for any services which have been performed under contracts between such enrollees and the health maintenance organization or medicare provider organization. Further, any contract between a health maintenance organization or medicare provider organization and a provider shall provide that if the health maintenance organization or medicare provider organization fails to pay for covered health care services as set forth in the contract between the health maintenance organization or medicare provider organization and its enrollee, the enrollee or covered dependents shall not be liable to any provider for any amounts owed by the health maintenance organization or medicare provider organization. If there is no written contract between the health maintenance organization or medicare provider organization and the provider or if the written contract fails to include the above provision, the enrollee and dependents are not liable to any provider for any amounts owed by the health maintenance organization or medicare provider organization. Any action by a provider to collect or attempt to collect from a subscriber or enrollee any sum owed by the health maintenance organization to a provider shall be deemed to be an unconscionable act within the meaning of K.S.A. 50-627 and amendments thereto.

(c) No group or individual certificate of coverage or contract form or amendment to an approved certificate of coverage or contract form shall be issued unless it is filed with the commissioner. Such contract form or amendment shall become effective within 30 days of such filing unless the commissioner finds that such contract form or amendment does not comply with the requirements of this section.

(d) Every contract shall include a clear and understandable description of the health maintenance organization's or medicare provider organization's method for resolving enrollee grievances.

(e) The provisions of subsections (A), (B), (C), (D) and (E) of K.S.A. 40-2209 and 40-2215 and amendments thereto shall apply to all contracts issued under this section, and the provisions of such sections shall apply to health maintenance organizations.

(f) In lieu of any of the requirements of subsection (a), the commissioner may accept certificates of coverage issued by a medicare provider organization in conformity with requirements imposed by any appropriate federal regulatory agency.

Sec. 11. K.S.A. 40-209 is hereby amended to read as follows: 40-209. (a) Any insurance company organized under the laws of any other country, state or territory, upon application, may be authorized to transact business in this state, when possessed of the required amount of paid-up capital and surplus, or surplus only if a mutual company, and:

(1) Has made the deposit required by this code with the department of insurance of this or any other state in the United States;

(2) participates to the extent possible in the insurance regulatory information system administered by the national association of insurance commissioners;

(3) has submitted an examination report of its financial condition and affairs which has been conducted by the insurance department of the state of domicile within three years of the date of application unless the commissioner determines that an earlier report will satisfy the purpose of this provision;

(4) demonstrates that any majority ownership interests are in sound financial condition;

(5) is not owned, managed or controlled by persons previously convicted of criminal activity involving fraud or embezzlement or offenses of a similar nature;

(6) has been in operation at least three years and has been the subject of an examination of its affairs and financial condition other than its organizational examination. This requirement does not apply to subsidiary or affiliate companies with substantially the same management of an admitted company, a continuing corporation resulting from merger or consolidation or a company whose admission is determined by the commissioner to be in the best public interest;

(7) the company will not require immediate regulatory attention by the department upon admission pursuant to K.S.A. 40-222b and amendments thereto.

(b) The authority shall not be granted, continued or renewed to any insurance company which is controlled, as such word is defined in subsection (c) of K.S.A. 40-3302, and amendments thereto, by another state of the United States or by a foreign government, or by any political subdivision of either.

(c) Every such company shall file a certified copy of its charter or deed of settlement with the commissioner of insurance, together with a statement, under oath of the president, vice-president or other chief officer and the secretary of the company for which they act, stating the name of the company, the place where located, and the amount of its capital, with a detailed statement of the facts and items required from companies organized under the laws of this state and a copy of the last annual report, if any was made, under any law of the state or country in which such company was incorporated.

(d) Upon the application of any such insurance company for a certificate of authority to transact business in this state, the commissioner of insurance shall be satisfied that the company is possessed of money and other admitted assets in excess of its liabilities, as herein provided, and that it has otherwise complied with all the other requirements of this code. The commissioner shall thereupon issue a certificate of authority to such company authorizing it to transact the classes of insurance permitted under its articles of incorporation and by the provisions of this code.

(e) The funds of any such insurance company, in excess of the minimum paid-up capital required by this code, may at all times be invested in such securities as are or may be authorized by the laws of the state in which such company is organized or in which it has and maintains its United States deposit.

(f) (1) *Except as provided in paragraph (2), the commissioner of insurance may, upon renewal of a certificate of authority waive any of the above requirements except those relating to assets, capital and surplus.*

(2) ~~The commissioner of insurance may, upon renewal of a certificate of authority at the commissioner's discretion, waive any of the above requirements except those relating to assets, capital and surplus for prescription drug plan sponsors as defined by 42 U.S.C. 1395w-151 as in effect on January 1, 2006.~~

(g) Whenever any insurance company organized under the laws of any other country, state or territory is issued a certificate of authority to transact insurance in this state by the commissioner of insurance pursuant to this section, such company shall not be required to comply with the provisions of the general corporation code relating to foreign corporations, nor shall any such company be required to file with the secretary of state its articles of

incorporation, charter, bylaws or other documents, or any amendments thereof, unless specifically required to do so by law.”;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 10, by striking “2005 Supp. 40-2258 is” and inserting “19-621, 32-950, 40-209, 40-955, 40-3209, 41-805, 58-2802, 68-1402, 75-110 and 78-102 and K.S.A. 2005 Supp. 40-2258 are”;

On page 1, in the title, in line 9, after the second semicolon, by inserting “pertaining to allowing certain lienholders and mortgagees to be shown on the application for insurance; eliminating requirements for multiple sureties; pertaining to continuation of certain group policies; pertaining to commissioner’s waiver of certain requirements concerning foreign insurance companies doing business in this state;”; in line 10, after “amending” by inserting “K.S.A. 19-621, 32-950, 40-209, 40-955, 40-3209, 41-805, 58-2802, 68-1402, 75-110 and 78-102 and”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

HB 2692 be amended on page 2, after line 25, by inserting the following:

“Sec. 2. K.S.A. 2005 Supp. 40-2903 is hereby amended to read as follows: 40-2903. As used in this act: (a) “Association” means the Kansas insurance guaranty association created by this act.

(b) “Commissioner” means the commissioner of insurance of this state.

(c) “Covered claim” means an unpaid claim, including one for unearned premiums, which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this act applies issued by an insurer, if such insurer becomes an insolvent insurer after the effective date of this act and:

(1) The claimant or insured is a resident of this state at the time of the insured event. For entities other than an individual, the residence of a claimant, insured or policyholder is the state in which the principal place of business of such claimant, insured or policyholder is located at the time of the insured events; or

(2) the claim is a first party claim for damage to property that is permanently located in this state.

“Covered claim” shall not include:

(1) Any amount due any reinsurer, insurer, insurance pool or underwriting association, as subrogation recoveries or otherwise.

(2) any amount awarded as punitive or exemplary damages unless such damages were covered under the policy of the insolvent insurer;

(3) any claim by an affiliate of the insolvent insurer.

(d) “*Domiciliary state*” means:

(1) *The state in which an insurer is incorporated or organized; or*

(2) *in the case of an alien insurer, the state of entry of such insurer.*

(e) “Insolvent insurer” means:

(1) An insurer licensed by the commissioner to transact insurance in this state either at the time the policy was issued or when the insured event occurred; and

(2) determined to be insolvent by a court of competent jurisdiction and against whom a final order of liquidation has been entered by a court of competent jurisdiction in the ~~insured’s home~~ *insurer’s domiciliary* state.

~~(f)~~ (f) “Member insurer” means any person who (1) is authorized to write any kind of insurance to which this act applies under K.S.A. 40-2902, and amendments thereto, including the exchange of reciprocal or inter-insurance contracts; and

(2) is licensed by the commissioner to transact insurance in this state. This act shall not apply to those persons transacting business pursuant to the provisions of K.S.A. 40-202, and amendments thereto.

~~(g)~~ (g) “Net direct written premiums” means first gross premiums written in this state on insurance policies to which this act applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. “Net direct written premiums” does not include premiums on contracts between insurers or reinsurers.

~~(h)~~ (h) “Person” means any individual, corporation, partnership, association or voluntary organization.

(i) *The provisions of this section, as amended on July 1, 2006, shall apply to all claims which have not been paid prior to April 14, 2005.*

Sec. 3. K.S.A. 2005 Supp. 40-433 is hereby amended to read as follows: 40-433. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

(1) A policy issued by an insurance company organized under the laws of the state of Kansas on its employees and agents, which agents for the purpose of this act only shall be deemed employees, the beneficiaries under such policies to be persons designated by each insured, or a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, both subject to the following requirements: (a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless the proprietor or partner is actively engaged in and devotes a substantial part of their time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials. (b) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by the employer, or partly from such funds and partly from funds contributed by the insured employees. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contribution. A policy on which no part of the premium is to be derived from funds contributed by the insured employees shall insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. (c) The policy shall cover at least ~~three~~ two employees at date of issue. (d) The amounts of insurance under the policy shall be based upon some plan, precluding individual selection either by the employees or by the employer or trustees.

(2) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements: (a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. (b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least 75% of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges shall insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. (c) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly, or may reasonably be expected to receive at least 100 new entrants

during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the new entrants become insured. (d) The amount of insurance on the life of any debtor shall at no time, under one or more policies, exceed the amount owed by that debtor which is repayable in installments to the creditor, or \$100,000, whichever is less. (e) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

(3) A policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements: (a) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

(b) The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75% of the then eligible members excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance shall insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy shall cover at least 25 members at date of issue.

(d) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the members or by the union.

(4) A policy issued to the trustees of a fund established in this state by two or more employers if a majority of the employees to be insured of each employer are located within the state, or to the trustees of a fund established by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements: (a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees and the individual proprietor or partners if any employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless the proprietor or partner is actively engaged in and devotes a substantial part of their time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. (b) The premium for the policy shall be paid by the trustees either wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or partly from such funds and partly from funds contributed by the insured employees. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured persons. The policy shall insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. (c) The policy shall cover at date of issue at least 100 persons and not less than an average of five persons per employer unit. (d) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or union.

(e) The requirements of paragraphs (b) and (d) of this subsection governing employer contributions and amounts of insurance shall not apply to a voluntary term life insurance policy issued on a group basis.

(5) A policy issued to an association which has been organized and is maintained for purposes other than that of obtaining insurance, insuring at least 25 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" as used herein shall be deemed to include retired employees. The premiums for the policies shall be paid by the policyholder, either wholly from association funds, or funds contributed by the members of such association or by employees of such members or any combination thereof. The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured person or by the association or by the member.

(6) Any policy issued pursuant to this section may be extended to insure the employees against loss due to the death of their spouses, their children, their grandchildren, their spouse's children, their spouse's grandchildren, their parents, their spouse's parents, or any class or classes thereof, subject to the following requirements:

(a) The premium for the insurance shall be paid by the policyholder, either from the employer's funds or from funds contributed by the insured employees, or from both. If any part of the premium is to be derived from funds contributed by the insured employees, the insurance with respect to spouses, their children, their grandchildren, their spouse's children, their spouse's grandchildren, their parents and their spouse's parents may be placed in force only if at least 75% of the then eligible employees, excluding any as to whose family members' evidence of insurability is not satisfactory to the insurer, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees, all eligible employees, excluding any as to whose family members' evidence of insurability is not satisfactory to the insurer, shall be insured with respect to their spouses, their children, their grandchildren, their spouse's children, their spouse's grandchildren, their parents, their spouse's parents.

(b) The amounts of insurance shall be based upon some plan precluding individual selection either by the employees or by the policyholder, or employer and shall not exceed with respect to any spouse, child or parent 50% of the insurance on the life of such insured employee.

(c) Upon termination of the insurance with respect to the spouse of an employee by reason of the employee's termination of employment or death, the spouse insured pursuant to this section shall have the same conversion rights as to the insurance on such spouse's life as is provided for the employee under K.S.A. 40-434 and amendments thereto.

(d) Notwithstanding the provisions of K.S.A. 40-434 and amendments thereto only one certificate need be issued for delivery to an insured person if a statement concerning any dependent's coverage is included in such certificate.

(e) The requirements of paragraphs (a) and (b) of this subsection governing participation, contribution by an employer and amounts of insurance for dependents shall not apply to a voluntary term life insurance policy issued on a group basis.

(7) A policy may be issued to any other group which the commissioner of insurance finds is the proper subject of a group life insurance policy or contract. Any such group shall be subject to any appropriate conditions or provisions relating thereto which the commissioner may establish or require, consistent with the provisions of this act, and such conditions and provisions shall be included in the policy or contract.":

And by renumbering the remaining sections accordingly;

Also on page 2, in line 26, by striking "is" and inserting ", 40-433 and 40-2903 are";

In the title, in line 10, after the semicolon by inserting "pertaining to the Kansas insurance guaranty association act; pertaining to group life insurance;"; also in line 10, after "40-2c01" by inserting ", 40-433 and 40-2903"; in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

HB 2874, as amended by House Committee, be amended on page 2, following line 31, by inserting:

“(e) The provisions of subsection (a) shall expire on July 1, 2011, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2011.”;

On page 4, in line 26, by striking “\$100,000” and inserting “\$250,000”; and the bill be passed as amended.

The Committee on **Judiciary** recommends **Substitute for HB 2706**, as amended by House Committee of the Whole, be amended on page 2, in line 38, by striking “suspend” and inserting “restrict”;

On page 3, in line 3, following the period by inserting “When this section requires the division to place restrictions on a person’s driving privileges, the division shall restrict the person’s driving privileges only under the circumstances provided by subsections (a)(1), (a)(2), (a)(3) and (a)(4) of K.S.A. 8-292, and amendments thereto.”; in line 4, by striking “suspension” and inserting “restriction”; in line 9, by striking “sus-”; in line 10, by striking “pension” and inserting “restriction”; in line 21, by striking “suspend” and inserting “restrict”;

On page 4, in line 31, by striking “suspended” and inserting “restricted”;

On page 5, in line 25, by striking “section 1.”; in line 29, following the period by inserting “The division shall restrict a person’s driving privileges when required by section 1, and amendments thereto.”;

On page 7, in line 20, by striking “suspending” and inserting “restricting”; in line 26, by striking “suspended” and inserting “restricted”; in line 28, by striking “suspension” and inserting “restriction”; in line 32, by striking “suspension” and inserting “restriction”; and the substitute bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2649**, as amended by House Committee, be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2649,” as follows:

“SENATE Substitute for HOUSE BILL No. 2649

By Committee on Public Health and Welfare

“AN ACT enacting the pain patient’s quality of care act; amending K.S.A. 60-4403, 65-2837 and 65-2838 and repealing the existing sections.”;

and the substitute bill be passed.

Committee on **Ways and Means** recommends **HB 2105** be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2105,” as follows:

“SENATE Substitute for HOUSE BILL No. 2105

By Committee on Ways and Means

“AN ACT concerning abuse, neglect and exploitation of persons with disabilities; creating a unit to investigate such abuse in the office of the attorney general.”;

and the substitute bill be passed.

Also, **HB 2949** be amended on page 2, after line 17, by inserting the following:

“Sec. 2. K.S.A. 65-3322 is hereby amended to read as follows: 65-3322. (a) There is hereby established in the state treasury a fund to be maintained in perpetuity and to be known as the Kansas water pollution control revolving fund. The fund shall consist of:

(1) Amounts awarded or otherwise made available to this state under the federal act for the purposes of the fund;

(2) amounts appropriated or otherwise made available by the legislature for the purposes of the fund;

(3) the proceeds, if any, derived from the sale of bonds issued by the Kansas development finance authority for the purposes of the fund to the extent provided in any agreement entered into by the secretary and the authority;

(4) amounts of repayments made by municipalities of loans received under K.S.A. 65-3321 through 65-3329, and amendments thereto, together with payments of interest thereon, in accordance with agreements entered into by such municipalities and the secretary;

(5) amounts earned on moneys in the fund; and

(6) amounts contributed or otherwise made available by any public or private entity for use in effectuating the purposes of the fund.

(b) Subject to the conditions and in accordance with requirements of the federal act and the provisions of K.S.A. 65-3321 through 65-3329, and amendments thereto, the fund may be used only:

- (1) To make loans to municipalities for payment of all or a part of project costs;
- (2) to carry out planning for wastewater treatments works;
- (3) for implementation of nonpoint source pollution control programs;
- (4) as a source of revenue or security for the payment of principal and interest on bonds issued by the Kansas development finance authority if, and to the extent that, the proceeds of the sale of such bonds are deposited in the fund;
- (5) *as a source of revenue or security for the payment of principal and interest on bonds issued by the Kansas development finance authority pursuant to the provisions of K.S.A. 65-163d through 65-163u, and amendments thereto;*
- ~~(6)~~ (6) to earn interest on moneys in the fund;
- ~~(7)~~ (7) to make grants to qualifying projects as authorized by the federal appropriation act of 1996 (P.L. 104-134), in accordance with the rural communities hardship grants program implementation guidelines (Federal Register, March 20, 1997);
- ~~(8)~~ (8) to make grants to qualifying projects as authorized by the consolidated appropriations act of 2001 (P.L. 106-554), in accordance with the wet weather water quality act of 2000; and
- ~~(9)~~ (9) for the reasonable costs, in amounts not to exceed 4% of all amounts awarded to the state for the fund under title VI of the federal act, of administering the fund and conducting activities under K.S.A. 65-3321 through 65-3329, and amendments thereto, and for reasonable costs after amounts cease to be awarded by the federal government under title VI of the federal act, as determined by the secretary, of administering the fund and conducting activities under K.S.A. 65-3321 through 65-3329, and amendments thereto. Such costs shall be identified annually in development of the intended use plan as described in K.S.A. 65-3325, and amendments thereto.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas water pollution control revolving fund interest earnings based on:

- (1) The average daily balance of moneys in the Kansas water pollution control revolving fund for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All payments and disbursements from the fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary. All payments and disbursements from the fund, and beginning and ending balances thereof, shall be subject each year to post audit in accordance with article 11 of chapter 46 of the Kansas Statutes Annotated.”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 18, by striking “is” and inserting “and 65-3322 are”;

In the title, in line 10, after the semicolon by inserting “concerning the Kansas water pollution control revolving fund; relating to allocations from such fund;”; also in line 10, after “65-163e” by inserting “and 65-3322”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Donovan the following report was adopted:

Recommended **SB 568**; **HB 2159**, **HB 2659** be passed.

SB 571, **SB 583**; **HB 2662**, **HB 2671**, **HB 2696**, **HB 2752**, **HB 2856** be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 570 be amended by adoption of the committee amendments, be further amended by motion of Senator D. Schmidt, as amended by Senate Committee, on page 18, by striking all in lines 3 through 10 and in line 11, by striking “(f)” and replacing with “(e)”

Senator Emler further amended **SB 570**, as amended by Senate Committee, on page 21, after line 6, by inserting the following:

“(h) In addition to the other purposes for which expenditures may be made by the Kansas highway patrol from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2006 for the Kansas highway patrol as authorized by chapter 174 or 206 of the 2005 Session Laws of Kansas or by this or other appropriation act of the 2006 regular session of the legislature, expenditures shall be made by the Kansas highway patrol from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2006, in consultation with the department of administration, division of purchases, to thoroughly analyze the current Fisher Scientific contract related to the homeland security grant program to determine if that current contract should be extended or rebid: *Provided*, That such analysis shall be completed on or before June 30, 2006: *Provided further*, That such analysis and determination shall be presented to the joint committee on Kansas security and the legislative budget committee and shall include (1) the date that grant moneys will begin being distributed directly to local units of government and to the seven homeland security regions, and (2) whether Fisher Scientific’s prices for various types of equipment represent a significant level of discount from the retail prices of other vendors: *And provided further*, That in order to help local units of government maximize the use of such local units’ grant moneys when selecting vendors for homeland security equipment purchases, the Kansas highway patrol, in consultation with the department of administration, division of purchases, shall immediately negotiate with Fisher Scientific for a reduction in fees for the third-party vendor purchases: *And provided further*, That if a satisfactory agreement cannot be reached, the Kansas highway patrol shall (1) eliminate the requirement on local units of government to purchase exclusively through the Fisher Scientific contract, (2) develop or obtain a system for electronically tracking grant purchases made by the local units of government, and (3) require local units of government to obtain, and submit, evidence of competitive bids for homeland security grant program funded items: *And provided further*, That all contract prices with Fisher Scientific shall include training and spare parts in the bid price when requested by the purchaser: *And provided further*, That the price charged by the Fisher Scientific contract for homeland security items shall be significantly discounted below the retail price of other vendors before the purchaser is required to use the Fisher Scientific contract: *And provided further*, That a waiver process shall be established by the Kansas Highway Patrol for items not included in the Fisher Scientific contract for local units to receive a waiver to purchase from other vendors: *And provided further*, That such waiver shall be provided if Fisher Scientific is not able to provide the product or does not respond in a timely manner if such product is available: *And provided further*, That if a waiver is granted to the local unit of government, that local unit shall demonstrate that the purchase price from a vendor other than Fisher Scientific is a competitively determined purchase price.”

Senator Umbarger further amended **SB 570**, as amended by Senate Committee, on page 20, after line 30, by inserting the following:

“Homeland security 2006 — federal fund..... No limit”
, and **SB 570** be passed as further amended.

SB 573 be amended by adoption of the committee amendments, be further amended by motion of Senator D. Schmidt, as amended by Senate Committee, on page 49, following line 2, by inserting the following:

“(t) No moneys shall be expended for the production, printing or distributing of the governor’s budget report during fiscal year 2007 unless such budget report submitted by the governor to the 2007 session of the legislature complies fully with the provisions of subsections (b)(1) and (b)(2) of K.S.A. 75-3721, and amendments thereto, and the portion of the report which complies fully with such subsections is stated in as much supporting detail, specificity and in as many pages as any other provision of such document.”

Senator Umbarger further amended **SB 573**, as amended by Senate Committee, on page 35, by striking all in line 12; by striking all in line 15; by striking all in line 27;

On page 36, by striking all in line 6;
 On page 85, in line 38, after “the” by inserting “fiscal year”;
 On page 86, after line 19, by inserting the following:

“Dependent care assistance program fund	No limit
Health and hospitalization insurance clearing fund	No limit
Health insurance premium reserve fund	No limit
Non-state employer group benefit fund	No limit”

Senator Umbarger further amended **SB 573**, as amended by Senate Committee, on page 85, in line 10, by striking all after “2007”; by striking all in line 11; in line 12, by striking all before the period; in line 17, by striking all after “2007”; by striking all in line 18; in line 19, by striking all before the period; in line 26, by striking all after “2007”; by striking all in line 27; in line 28, by striking all before the period; in line 34, by striking the colon; by striking all in line 35; in line 36, by striking all before the period, and **SB 573** be passed as further amended.

The following amendments offered to **SB 573** were rejected:

Senator Wagle moved to amend **SB 573**, as amended by Senate Committee, on page 126, following line 4, by inserting the following to read as follows:

“*Provided*, That expenditures may be made from the cancer center account for the fiscal year ending June 30, 2007, only if the Midwest cancer alliance has been established and the governing body of the Midwest cancer alliance includes the participation of each of the following: The university of Kansas medical center, the university of Kansas cancer center, the Kansas bioscience authority, the Kansas state university Terry C. Johnson center for basic cancer research, the cancer center of Kansas, the Wichita community cancer oncology program, the Kansas City cancer center, and each other adult or pediatric cancer oncology program in Kansas: *Provided further*, That the governing body of the Midwest cancer alliance shall perform the functions of an outside oversight committee for the university of Kansas cancer center to assist in meeting requirements to achieve designation by the national cancer institute (NCI) as a comprehensive cancer center by 2015.”

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

On roll call, the vote was: Yeas 12, Nays 28, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Brownlee, Donovan, Huelskamp, Jordan, Journey, O’Connor, Ostmeyer, Palmer, Petersen, Pyle, Wagle.

Nays: Allen, Apple, Barone, Betts, Bruce, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

The motion failed and the amendment was rejected.

Senator Huelskamp moved to amend **SB 573**, as amended by Senate Committee, on page 198, after line 8, by inserting the following:

“Sec. 72. (a) During the fiscal year ending June 30, 2007, no expenditures shall be made by any state agency from any moneys appropriated from the state general fund for fiscal year 2007 by this or other appropriation act of the 2006 regular session of the legislature to: (1) Perform or attempt to perform human cloning; (2) participate in an attempt to perform human cloning; or (3) cause to be shipped or knowingly receive, by interstate or intrastate commerce, the product of human cloning for any purpose.

(b) As used in this section:

(1) “Diploid cell” means a cell which has a complete set of chromosomes;

(2) “human cloning” means human asexual reproduction, accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated to produce a living organism at any stage of development with a human or predominantly human genetic constitution that is genetically virtually identical to an existing or previously existing human organism;

(3) “oocyte” means an egg before maturation; and

(4) “somatic cell” means a diploid cell which comes from cells of the body that compose the tissues, organs or other parts of an individual other than germ cells and which is obtained or derived from a living or deceased human organism at any stage of development.”;

And by renumbering sections accordingly

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

On roll call, the vote was: Yeas 15, Nays 25, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Barone, Brownlee, Gilstrap, Huelskamp, Jordan, Journey, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Taddiken, Wagle, Wilson.

Nays: Allen, Apple, Betts, Bruce, Brungardt, Donovan, Emler, Francisco, Goodwin, Haley, Hensley, Kelly, Lee, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wysong.

The motion failed and the amendment was rejected.

EXPLANATION OF VOTE

MR. CHAIRMAN: I agree with the fundamental principal of the amendment. At this point I am not sure of the consequences or the unattended consequences of the amendment with the definitions used. This is a very difficult issue to understand for people that are not in the health science profession. Therefore I must vote no today. At the end of the day we must vote for policy that is good for our state and that is just and true. Let's bring this back in a more thoughtful manner—PAT APPLE

Senators Betts, Bruce, Goodwin, Kelly, McGinn, Morris, Pine, Teichman, Umbarger and Vratil request the record to show they concur with the "Explanation of Vote" offered by Senator Apple on **SB 573**.

MR. CHAIRMAN: I find human cloning a repugnant violation of natural law. With that in mind, I was chosen to represent my constituents to the best of my ability.

In order to fulfill my obligation it requires me and my peers to be as educated as possible on the issues before this body. In fact, our entire legislative process is dependent on such collective wisdom.

However, this amendment has been brought forward in a hasty manner, and as a result has not allowed me to fully understand the issue before us this evening; nor do I fully understand the consequences of this amendment—either the bad or the good consequences.

Unfortunately, I am forced to vote against a measure that I may have otherwise embraced had the appropriate steps been taken to allow this body the ability to become knowledgeable on an extremely technical issue.

MR. CHAIRMAN, I vote no with the great desire that this measure may be dealt with in an appropriate way in the near future. If, after receiving the proper attention needed, this amendment truly prohibits human cloning and not other reasonable forms of treatment, I will whole-heartedly endorse such limitations.—TERRY BRUCE

Senators Apple, Betts, Donovan, Emler, Goodwin, Kelly, Lee, McGinn, Morris, Pine, Teichman, Umbarger and Vratil request the record to show they concur with the "Explanation of Vote" offered by Senator Bruce on **SB 573**.

MR. CHAIRMAN: After more than two hours of very thorough and informative debate it is very clear that this amendment very simply bans human cloning and the use of SGF funds for human cloning.—DENNIS PYLE

MR. CHAIRMAN: For the record, simply put, I am against cloning.—DAVID WYSONG

Senator Francisco requests the record to show she concurs with the "Explanation of Vote" offered by Senator Wysong on **SB 573**.

HB 2578 be amended by adoption of the committee amendments, be further amended by motion of Senator Schodorf, as amended by Senate Committee, on page 1, in line 18, before the period, by inserting "act"; in line 19, by striking "this" and inserting "the special education teacher service scholarship program";

On page 6, by striking all in lines 1 and 2 and inserting:

"Sec. 9. Sections 10 through 16, and amendments thereto, shall be known and may be cited as the teacher education scholarship program act.

Sec. 10. As used in the teacher education scholarship program act:

(a) "Executive officer" means the chief executive officer of the state board of regents appointed under K.S.A. 74-3203a, and amendments thereto.

(b) "Qualified student" means a person who: (1) Is a resident of the state of Kansas; (2) is licensed as a teacher and has been employed as a teacher for at least four years at an accredited school or a person who holds an associate's degree and has been employed at an accredited school for at least four years; (3) (A) has been accepted for admission to, or is enrolled in, a course of instruction leading to a master's degree in the field of education in the case of a person who is licensed as a teacher or (B) holds an associate's degree and has been accepted for admission to, or is enrolled in, a course of instruction leading to licensure as a teacher; and (4) has qualified for the award of a scholarship under the teacher education scholarship program act on the basis of having demonstrated scholastic ability, or who has previously so qualified and remains qualified for renewal of the scholarship on the basis of remaining in good standing and making satisfactory progress toward completion of the requirements of the course of instruction in which enrolled.

(c) "Program" means the teacher education scholarship program.

Sec. 11. (a) There is hereby established the teacher education scholarship program. Such program shall be administered by the state board of regents. Scholarships shall be awarded first to qualified students who are enrolled in a course of instruction which will lead to licensure of full-endorsement as a teacher in a teaching discipline for which the board determines is the greatest need. Subject to the provisions of appropriations therefor, a scholarship may be awarded and renewed under such program to any qualified student.

(b) A scholarship awarded under the program shall provide for payment to a qualified student of (1) an amount not to exceed 100% of the cost of fees and tuition for an academic year at the teacher education school in which the qualified student is enrolled if such teacher education school is maintained by a state educational institution or (2) an amount not to exceed 100% of the average amount of the cost of fees and tuition for an academic year at the teacher education schools maintained by the state educational institutions if the teacher education school in which the qualified student is enrolled is not a state educational institution.

Sec. 12. (a) The executive officer shall determine whether a student is qualified to receive a scholarship under the program. An applicant for designation as a qualified student and for the award of a scholarship under the program shall provide to the executive officer, on forms supplied by the executive officer, information required by the executive officer.

(b) As a condition to awarding a scholarship under this act, the executive director and the applicant shall enter into an agreement which requires the applicant to:

(1) (A) Complete the required course of instruction leading to a master's degree in the case of a qualified student who is licensed as a teacher or (B) leading to licensure as a teacher in the case of a qualified student who holds an associate's degree;

(2) comply with the terms and conditions as may be specified by such agreement;

(3) commence teaching on a full-time basis in Kansas in an accredited public or private elementary or secondary school in accordance with the agreement and continue teaching on a full-time basis for a period of not less than one year for each 15 credit hours of assistance received or commence teaching on a part-time basis in Kansas in an accredited public or private elementary or secondary school in accordance with the agreement and continue teaching on such a part-time basis for a period of time that is equivalent to full-time, as determined by the executive director;

(4) commence teaching in Kansas on a full-time or part-time basis within six months after licensure is obtained and continue teaching for the period of time required by the agreement;

(5) maintain records and make reports to the executive director as required by the executive director to document the satisfaction of the obligations under this act and the agreement; and

(6) repay to the state amounts as provided in section 13, and amendments thereto, if the student fails to satisfy any obligation under any agreement entered into under the program.

Sec. 13. (a) Except as provided in section 14, and amendments thereto, upon the failure of any person to satisfy the obligation under any agreement entered into pursuant to the program, such person shall pay to the executive director an amount equal to the total amount of money received by such person pursuant to such agreement plus accrued interest at a rate which is equivalent to the interest rate applicable to scholarships made under the federal

PLUS program at the time such person first entered into an agreement plus five percentage points. Amounts of payment under this section shall be adjusted proportionately for full years of the obligation that have been satisfied. Installment payments of any such amounts may be made in accordance with the provisions of the agreement entered into by the scholarship recipient or if no such provisions exist in such agreement, in accordance with rules and regulations of the executive director, except that such installment payments shall commence six months after the date of the action or circumstances that cause the failure of the person to satisfy the obligations of such agreements, as determined by the executive director based upon the circumstances of each individual case. Amounts paid under this section to the executive director shall be deposited in the teacher education scholarship repayment fund in accordance with section 16, and amendments thereto.

(b) The executive director is authorized to turn any repayment account arising under the program over to a designated collection agency with the state not being involved other than to receive payments from the collection agency at the interest rate prescribed under this section.

Sec. 14. (a) Except as otherwise specified in the agreement, an obligation under any agreement entered into under the program shall be postponed: (1) During any required period of active military service; (2) during any period of service as a part of volunteers in service to America (VISTA); (3) during any period of service in the peace corps; (4) during any period of service commitment to the United States public health service; (5) during any period of religious missionary work conducted by an organization exempt from tax under section 501(c)(3) of the federal internal revenue code as in effect on December 31, 2005; (6) during any period of time the person obligated is unable because of temporary medical disability to teach; (7) during any period of time the person obligated is enrolled and actively engaged on a full-time basis in a course of study leading to a degree in the field of education which is higher than that formerly attained; (8) during any period of time the person obligated is on job-protected leave under the federal family and medical leave act of 1993; or (9) during any period of time the executive director determines that the person obligated is unable because of special circumstances to teach. Except for clauses (6), (8) and (9), an obligation under any agreement entered into as provided in the program shall not be postponed more than five years from the time the obligation was to have been commenced under such agreement. An obligation under any agreement entered into as provided in the program shall be postponed under clause (6) during the period of time the medical disability exists. An obligation under any agreement entered into as provided in the program shall be postponed under clause (8) during the period of time the person obligated remains on FMLA leave. An obligation to engage in teaching in accordance with an agreement under the program shall be postponed under clause (9) during the period of time the executive director determines that the special circumstances exist. The executive director shall adopt rules and regulations prescribing criteria or guidelines for determination of the existence of special circumstances causing an inability to teach, and shall determine the documentation required to prove the existence of such circumstances.

(b) An obligation under any agreement entered into as provided in the program shall be satisfied: (1) If the obligation has been completed in accordance with the agreement; (2) if the person obligated dies; (3) if, because of permanent physical disability, the person obligated is unable to satisfy the obligation; (4) if the person obligated fails to satisfy the requirements for a graduation from a teacher education program or post-graduate program after making the best effort possible; (5) if the person obligated fails to satisfy all requirements for licensure, or renewal thereof, to teach in Kansas or has been denied such licensure after applying therefor and making the best effort possible to obtain such license; or (6) if the person obligated is unable to obtain employment as a teacher after making the best effort possible to obtain such employment and the person obligated otherwise completes the terms, conditions and obligations of the agreement.

Sec. 15. The executive director shall adopt rules and regulations for administration of the program and shall establish terms, conditions and obligations which shall be incorporated into the provisions of any agreement entered into between the executive director and an applicant for the award of a scholarship under the program. The terms, conditions and obligations shall be consistent with the provisions of law relating to the program and shall

include, but not be limited to, the circumstances under which eligibility for financial assistance under the program may be terminated, the amount of financial assistance to be provided, the circumstances under which obligations may be discharged or forgiven, the amount of money required to be repaid because of failure to satisfy the obligations under an agreement and the method of repayment.

Sec. 16. (a) There is hereby created in the state treasury the teacher education scholarship program fund. The executive director shall remit all moneys received under the program, which are paid because of nonattendance or discontinuance by scholarship recipients, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the teacher education scholarship program fund. All expenditures from the fund shall be for scholarships awarded under the program and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive officer or by a person designated by the executive officer.

(b) There is hereby created in the state treasury the teacher education scholarship repayment fund. The executive officer shall remit all moneys received under the program, which are for payment of amounts pursuant to section 13, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the teacher education scholarship repayment fund. All expenditures from such fund shall be for scholarships awarded under the program and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director or by a person designated by the executive director.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.”;

On page 1, in the title, by striking all in lines 12 and 13 and inserting “AN ACT establishing teacher service scholarship programs; providing for the administration thereof.”, and **HB 2578** be passed as further amended.

HB 2709 be amended by adoption of the committee amendments, be further amended by motion of Senator Donovan, as amended by Senate Committee, on page 3, in line 2, following “(f)” by inserting “(1)”; preceding line 6, by inserting:

“(2) The provisions of this subsection shall expire on June 30, 2009.”, and **HB 2709** be passed as further amended.

ACTION ON VETO MESSAGE

Announcing a veto message from the Governor having been received on March 21, 2006, Senator Journey moved the Senate reconsider the veto of **SB 418** and the bill be passed notwithstanding the Governor’s veto.

A call of the Senate was requested upon the showing of five hands. All the Senators were present and the call of the Senate was lifted.

SB 418. An act enacting the personal and family protection act; providing for licensure to carry certain concealed weapons; prohibiting certain acts and prescribing penalties for violations; amending K.S.A. 2005 Supp. 12-4516, 21-4201 and 21-4619 and repealing the existing sections.

On roll call, the vote was: Yeas 30, Nays 10, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Barone, Brownlee, Bruce, Donovan, Emler, Gilstrap, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, McGinn, Morris, O’Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson.

Nays: Allen, Betts, Brungardt, Francisco, Goodwin, Lee, Reitz, Schmidt V, Vratil, Wy-song.

A two-thirds constitutional majority having voted in favor of overriding the Governor’s veto, the motion prevailed and the bill passed.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: After examining all the evidence, and after talking to many Kansans, I firmly believe that Kansas should join the other 38 states that have passed this legislation and now have the right to protect and defend themselves and their families.—
JIM BARNETT

MESSAGE FROM THE HOUSE

Announcing the House accedes to the request of the Senate for a conference on **SB 375** and has appointed Representatives Sloan, E. Johnson and Carlin as conferees on the part of the House.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Thursday, March 23, 2006.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.
PAT SAVILLE, *Secretary of the Senate*.

