

Journal of the Senate

FORTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, March 16, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with forty senators present.
President Morris introduced as guest chaplain, Rev. Howard Cupp, Westside Christian Church, Topeka, Kansas, who delivered the invocation:

God of our dreams and our disappointments, our fears and our frustrations: we give thanks for the blessings that fill our lives, especially now for the guidance and empowerment that you offer for just and fair leadership.

We find ourselves in a difficult and confusing time. Perhaps we are learning the inadequacy of our cherished ways of doing things. Perhaps, after sowing seeds of injustice, we are reaping a harvest of crumbling institutions. We confess our need for your guidance if we were to find our way through and beyond these trying times to a life of justice and abundance for all our citizens.

So I pray that you will grant these men and women the power, the desire, and the grace truly to listen—and hear—you and one another, that this body might become a representative community, rather than armies of opposing parties and interests, and rise above the desire for power and control, to lay a good foundation, through laws, budgets, and programs, for a life of justice and abundance—not just for a privileged majority—but for all who call Kansas home.

Bless their efforts, God, to serve you and all their constituents faithfully.
Amen.

The Pledge of Allegiance was led by President Stephen Morris.

POINT OF PERSONAL PRIVILEGE

Senator McGinn rose on a point of personal privilege to introduce Carolyn Lindsey, Mike Leck, Christin Gillman, Hannah Gillman, Amanda Gillman, Micah Gillman, Jamie Gillman, Chelsea Moore, Calvary Lyle and Gabe Butel, who were guests representing the Friends of the Great Plains Nature Center publishing the book *Kansas Critters: Birds; a Wildlife Book* written and illustrated by Kansas Kids.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 315, An act concerning water; relating to tax exemptions; notification to water rights holders; review of water development projects; amending K.S.A. 79-201g, 82a-325, 82a-327, 82a-406 and 82a-407 and K.S.A. 2008 Supp. 82a-405, 82a-714 and 82a-718 and repealing the existing sections, by Committee on Ways and Means.

SB 316, An act concerning chemigation safety; relating to application of swine waste; amending K.S.A. 2008 Supp. 2-3318 and 65-1,182 and repealing the existing sections, by Committee on Ways and Means.

SB 317. An act abolishing the Kansas technology enterprise corporation and transferring the powers and duties thereof to the department of commerce and the board of regents; amending K.S.A. 74-5001a, 74-8102, 74-8103, 74-8106, 74-8107, 74-8108, 74-8109, 74-8110, 74-8111, 74-8316, 74-8317, 74-8318, 74-8319, 74-8401, 75-2935b, 75-3208 and 76-770 and K.S.A. 2008 Supp. 74-520a, 74-5005, 74-50,133, 74-50,151, 74-50,156, 74-8101, 74-8104, 74-8131, 74-8132, 74-8133, 74-8134, 74-8135, 74-8136, 74-99b03, 74-99b04, 74-99b09, 74-99b63, 74-99b66, 74-99c03 and 75-2935 and repealing the existing sections; also repealing K.S.A. 74-5050 and 74-8105, by Committee on Ways and Means.

SB 318. An act concerning the state board of healing arts; relating to fees charged and collected by the board; amending K.S.A. 65-2852, 65-5409, 65-5509 and 65-7207 and K.S.A. 2008 Supp. 65-2012, 65-28a03, 65-2911, 65-6910 and 65-7308 and repealing the existing sections, by Committee on Ways and Means.

SB 319. An act concerning retirement and pensions; relating to the Kansas police and firemen's retirement system; affiliation of adjutant general; membership of certain firefighters; contributions, by Committee on Ways and Means.

SB 320. An act concerning the department of social and rehabilitation services; regarding the funeral assistance program; amending K.S.A. 22a-215 and 39-713d and repealing the existing sections, by Committee on Ways and Means.

SB 321. An act concerning insurance; relating to the insurance department service regulation fund; amending K.S.A. 2008 Supp. 40-112 and repealing the existing section, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1615—

By Senators Pilcher-Cook, Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pyle, D. Schmidt, Schodorf, Taddiken, Vratil and Wagle

A CONCURRENT RESOLUTION claiming sovereignty under the Tenth Amendment to the Constitution of the United States over certain powers; serving notice to the federal government to cease and desist certain mandates; providing that certain federal legislation be prohibited or repealed; and directing distribution.

WHEREAS, The Tenth Amendment to the Constitution of the United States reads as follows:

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”; and

WHEREAS, The Tenth Amendment defines the total scope of federal power as being that specifically granted by the Constitution of the United States and no more; and

WHEREAS, The scope of power defined by the Tenth Amendment means that the federal government was created by the states for the specific purpose of being an agent of the states; and

WHEREAS, Today, in 2009, the states are demonstrably treated as agents of the federal government; and

WHEREAS, Many federal laws are in direct violation of the Tenth Amendment to the Constitution of the United States; and

WHEREAS, The Tenth Amendment assures that we, the people of the United States of America and each sovereign state in the Union of States, now have, and have always had, rights the federal government may not usurp; and

WHEREAS, Article IV, Section 4 says, “The United States shall guarantee to every State in this Union a Republican Form of Government”, and the Ninth Amendment states that “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people”; and

WHEREAS, The United States Supreme Court has ruled in *New York v. United States*, 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

WHEREAS, A number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the Constitution of the United States.

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the State of Kansas hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States;

Be it further resolved: That this serve as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of these constitutionally delegated powers;

Be it further resolved: That all compulsory federal legislation which directs states to comply under threat of civil or criminal penalties or sanctions or requires states to pass legislation or lose federal funding be prohibited or repealed; and

Be it further resolved: That a copy of this resolution be distributed to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Speaker of the House and the President of the Senate of each state's legislature of the United States of America, and each member of the Kansas Congressional Delegation.

SENATE CONCURRENT RESOLUTION No. 1616—

By Committee on Ways and Means

A CONCURRENT RESOLUTION urging Kansas school districts to use carefully the federal stimulus funds received under the Federal American Recovery and Reinvestment Act of 2009 and to use other available funds to establish or to increase the balances in contingency reserve funds of districts.

WHEREAS, The Federal American Recovery and Reinvestment Act of 2009 will provide over \$1.7 billion in federal economic stimulus funds to the state of Kansas; and

WHEREAS, The funds are designed to stimulate the economy in the short term and for investment in education and other essential public services to ensure the long-term economic health of our nation; and

WHEREAS, The State of Kansas will receive over \$875 million in federal economic stimulus funds under the Federal American Recovery and Reinvestment Act of 2009 for educational purposes; and

WHEREAS, Approximately \$600 million of the federal economic stimulus funds under the Federal American Recovery and Reinvestment Act of 2009 will be expended for primary and secondary education in the state of Kansas; and

WHEREAS, The projected State General Fund receipts for the state of Kansas forecast significant shortfalls in the balances of the State General Fund, perhaps, by some projections as high as 23% in Fiscal Year 2012; and

WHEREAS, The Secretary of the United States Department of Education, Arne Duncan, has cautioned state and school district officials that federal economic stimulus funds received under the Federal American Recovery and Reinvestment Act of 2009 are provided on a one-time basis and that state and school district officials need to find the best way to stretch every dollar and not to spend such funds to finance on-going programs; and

WHEREAS, School districts should take steps to be prepared for the possibility that unless the state and national economy markedly improves, in Fiscal Year 2012 the State General Fund could face a potential shortfall of huge proportions resulting in the reduction of appropriation of state moneys for school districts: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That we encourage school districts to utilize carefully one-time federal economic stimulus funds received under the Federal American Recovery and Reinvestment Act of 2009 and not to finance on-going programs with such funds; and

Be it further resolved: That we encourage the school districts to be responsible stewards of the school funds and to establish or increase the balances in contingency reserve funds of districts with other available funds in order to be prepared for the projected shortfall in state moneys in Fiscal Year 2012; and

Be it further resolved: That the Secretary of State be directed to provide an enrolled copy of this resolution to the Commissioner of Education who shall provide copies to the chair-

person of the board of education of each school district and the superintendent of each school district.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following resolution was referred to Committee as indicated:

Public Health and Welfare: **SR 1851**.

CHANGE OF REFERENCE

The President withdrew **HB 2172** from the Calendar under the heading of General Orders, and rereferred the bill to the Committee on **Assessment and Taxation**.

MESSAGE FROM THE GOVERNOR

SB 14, SB 219 approved on March 13, 2009.

COMMUNICATIONS FROM STATE OFFICERS

SENATE PRESIDENT

May 23, 2008

In accordance with KSA 2007 Supp. 75-7401, Stephen R. Morris, Senate President, re-appointed E.J. "Ned" Holland to the Kansas Health Policy Authority for a term of four years which shall expire March 15, 2012.

KANSAS DEPARTMENT OF REVENUE

March 15, 2009

In accordance with KSA 79-1490, Mark S. Beck, Director, Division of Property Valuation, submitted the 2008 Preliminary Real Estate Appraisal/Sales Ratio Study.

KANSAS ADVISORY GROUP ON JUVENILE
JUSTICE AND DELINQUENCY PREVENTION

Ward Loyd, Chair, Kansas Advisory Group, submitted the 2008 Annual Report.

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

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2084, HB 2319, HB 2343, HB 2354**.

Also, passage of **SB 5, SB 40, SB 86, SB 137**.

Also, passage of **SB 84, as amended**.

The House nonconcurrs in Senate amendments to **HB 2158**, requests a conference and appoints Representatives Huebert, Schwab and Sawyer as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2084, HB 2319, HB 2343, HB 2354 were thereupon introduced and read by title.

ORIGINAL MOTION

On motion of Senator V. Schmidt, the Senate acceded to the request of the House for a conference on **HB 2158**.

The President appointed Senators V. Schmidt, Apple and Faust-Goudeau as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator D. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1852—

A RESOLUTION commemorating the sesquicentennial of the founding of the City of Iola,
Kansas.

WHEREAS, On January 1, 1859, a group of 50 pioneers gathered to form the Iola Town Company of which John W. Scott was elected president; and

WHEREAS, Iola, Kansas was established in 1859, making 2009 the sesquicentennial of its founding; and

WHEREAS, Iola was named in honor of Iola Colborn, who with her husband, Josiah F. Colborn, had settled in a log cabin near the future town site in 1857 and who built the first frame house in the new town; and

WHEREAS, In 1865 Iola became the county seat of Allen County; and

WHEREAS, Iola's population exploded during the Gas Boom era of 1894-1907, growing from a town of about 1,500 people to one of approximately 14,000, all as the result of the discovery and utilization of vast natural gas pools; and

WHEREAS, This tremendous natural gas supply furnished the fuel for the development of cement and brick plants, zinc smelters and other small manufacturing plants. Additionally, this economic boom resulted in publicly owned utilities, an electric railway, a public library building, multiple school buildings and a Grand Theater; and

WHEREAS, Even after the gas pools were largely exhausted, Iola continued to improve its community facilities and to serve the residents of Iola; and

WHEREAS, New industry such as Columbia Metal Products, Gates Rubber Company, Haldex Brake Corporation and Russell Stover Candies have helped to keep the Iola economy going strong; and

WHEREAS, The City of Iola has proudly served its citizens for the past 150 years and it looks forward to continuing to do so in the years ahead: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we commemorate the sesquicentennial of the founding of the City of Iola and celebrate the unique contributions that it has provided for its citizens and the State of Kansas; and

Be it further resolved: That the Secretary of the Senate be directed to provide eight enrolled copies of this resolution to Senator Derek Schmidt.

On emergency motion of Senator D. Schmidt **SR 1852** was adopted unanimously.

A delegation from Iola was introduced by Senator D. Schmidt and welcomed by the Senators.

REPORT ON ENGROSSED BILLS

SB 224, SB 241, SB 248, SB 260 reported correctly engrossed March 13, 2009.

REPORT ON ENROLLED BILLS

SB 46, SB 77, SB 187 reported correctly enrolled, properly signed and presented to the Governor on March 16, 2009.

SR 1847, SR 1848, SR 1849, SR 1850 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 16, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Commerce recommends **HB 2260**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2260," as follows:

"SENATE Substitute for HOUSE BILL No. 2260

By Committee on Commerce

"AN ACT concerning the Kansas home inspectors professional competence and financial responsibility act; amending K.S.A. 2008 Supp. 58-4501, 58-4502, 58-4503, 58-4504, 58-4505, 58-4506, 58-4509, 58-4510, 58-4511 and 58-4512 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 58-4513."; and the substitute bill be passed.

Committee on **Education** recommends **HB 2002**, as amended by House Committee, be amended on page 2, in line 29, by striking all after "72-6448."; by striking all in lines 30 through 38;

On page 3, by striking all in lines 6 through 35 and inserting the following:

"(a) As used in this section:

(1) "Pupil" has the meaning ascribed thereto by K.S.A. 72-6407, and amendments thereto.

- (2) "School year" means school year 2009-2010, 2010-2011, 2011-2012 or 2012-2013.
- (b) Each school year, the state board shall:
- (1) Determine the number of pupils enrolled in each district on September 20;
 - (2) determine the number of pupils enrolled in each district on February 20;
 - (3) subtract the number determined under (1) from the number obtained under (2);
 - (4) if the number obtained under (3) is 25 or more, the enrollment of the district shall be determined on February 20;
 - (5) if the number obtained under (3) is at least 1% of the number determined under (1), the enrollment of the district shall be determined on February 20."; and the bill be passed as amended.

Committee on **Ethics and Elections** recommends **SB 268** be passed.

Also, **SB 267** be amended on page 1, after line 20, by inserting the following:

"(b) If a person submits an application for voter registration and also submits an application for an advance voting ballot during the period beginning the 20th day before the election and ending the 15th day before the election, such voter's advance voting ballot shall be provisional.";

And by relettering the remaining subsections accordingly;

On page 3, in line 36, after the period by inserting "Once a permanent advance voter has provided valid identification, or if such voter's registration has been verified pursuant to K.S.A. 25-2354, and amendments thereto, such voter shall not be required to provide identification in subsequent elections unless the voter:

- (1) Changes the voter's name or residential address;
- (2) moves out of the county or state; or
- (3) is removed from the registration list and re-registers.";

On page 6, after line 11, by inserting the following:

"Any person applying for permanent advance voter status shall submit valid identification as provided in subsection (b) or (c) of this section. Once such permanent advance voter has provided valid identification, or if such voter's registration has been verified pursuant to K.S.A. 25 2354, and amendments thereto, such voter shall not be required to provide identification in subsequent elections unless the voter:

- (1) Changes the voter's name or residential address;
- (2) moves out of the county or state; or
- (3) is removed from the registration list and re-registers.";

On page 8, in line 41, after "(4)" by inserting "request";

On page 11, after line 28, by inserting the following:

"(9) Any provisional advance voting ballot cast pursuant to K.S.A. 25-1122, and amendments thereto, shall be counted if the application for voter registration is determined by the county election officer to be valid and if the county board of canvassers determines that the ballot was properly cast and the voter has not otherwise voted at such election."; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2059; HB 2111**, as amended by House Committee, be passed.

Committee on **Local Government** recommends **HB 2155** be passed.

Committee on **Public Health and Welfare** recommends **HB 2297**, as amended by House Committee, be passed,

Also, **SR 1851** be adopted.

HB 2010, as amended by House Committee, be amended on page 1, in line 33, by striking "depos-"; in line 34, by striking all before "credited"; in line 35, before the period, by inserting "until such time the balance exceeds \$100,000";

On page 2, in line 22, before the period, by inserting "within one year of the effective date of this section";

On page 9, after line 16, by inserting the following:

"Sec. 2. K.S.A. 2008 Supp. 65-28,127 is hereby amended to read as follows: 65-28,127.

(a) Every responsible licensee who directs, supervises, orders, refers, accepts responsibility for, enters into practice protocols with, or who delegates acts which constitute the practice of the healing arts to other persons shall:

- (1) Be actively engaged in the practice of the healing arts in Kansas;

(2) review and keep current any required practice protocols between the responsible licensee and such persons, as may be determined by the board;

(3) direct, supervise, order, refer, enter into a practice protocol with, or delegate to such persons only those acts and functions which the responsible licensee knows or has reason to believe ~~such person is competent and authorized by law to perform~~ *can be competently performed by such person and is not in violation of any other statute or regulation*;

(4) direct, supervise, order, refer, enter into a practice protocol with, or delegate to other persons only those acts and functions which are within the normal and customary specialty, competence and lawful practice of the responsible licensee;

(5) provide for a qualified, substitute licensee who accepts responsibility for the direction, supervision, delegation and practice protocols with such persons when the responsible licensee is temporarily absent;

(6) comply with all rules and regulations of the board establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(b) "Responsible licensee" means a person licensed by the state board of healing arts to practice medicine and surgery or chiropractic who has accepted responsibility for the actions of persons who perform acts pursuant to practice protocols with, or at the order of, or referral, direction, supervision or delegation from such responsible licensee.

(c) Except as otherwise provided by rules and regulations of the board implementing this section, the physician assistant licensure act shall govern the direction and supervision of physician assistants by persons licensed by the state board of healing arts to practice medicine and surgery.

(d) Nothing in subsection (a)(4) shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing anesthesia care by a registered nurse anesthetist pursuant to K.S.A. 65-1158 and amendments thereto.

(e) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing physical therapy services pursuant to K.S.A. 65-2901 et seq. and amendments thereto.

(f) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from entering into a co-management relationship with an optometrist pursuant to K.S.A. 65-1501 et seq. and amendments thereto.

(g) The board may adopt rules and regulations establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(h) This section shall be part of and supplemental to the Kansas healing arts act.;

And by renumbering the remaining sections accordingly;

On page 11, in line 12, before "65-28,128" by inserting "65-28,127 and"; also in line 12, by striking "is" and inserting "are";

On page 1, in the title, in line 11, before the semicolon, by inserting "and delegation of practice"; in line 13, before "65-28,128" by inserting "65-28,127 and"; in line 14, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 274** be passed.

SB 293 be amended on page 1, following the enacting clause by inserting the following:

"Section 1. K.S.A. 2008 Supp. 8-126 is hereby amended to read as follows: 8-126. The following words and phrases when used in this act shall have the meanings respectively ascribed to them herein:

(a) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor vehicle" means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

(c) "Truck" means a motor vehicle which is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

(d) "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined.

(e) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

(f) "Farm tractor" means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

(g) "Road tractor" means every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

(h) "Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(i) "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(j) "Pole trailer" means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

(k) "Specially constructed vehicle" means any vehicle which shall not have been originally constructed under a distinctive name, make, model or type, or which, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

(l) "Foreign vehicle" means every motor vehicle, trailer or semitrailer which shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

(m) "Person" means every natural person, firm, partnership, association or corporation.

(n) "Owner" means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this act.

(o) "Nonresident" means every person who is not a resident of this state.

(p) "Manufacturer" means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

(q) "New vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles and who holds a dealer's contract therefor from a manufacturer or distributor and who has an established place of business in this state.

(r) "Used vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state and who does not hold a dealer's contract for the sale of new motor vehicles, travel trailers, trailers or vehicles.

(s) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

(t) "Department" or "motor vehicle department" or "vehicle department" means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas.

(u) "Commission" or "state highway commission" means the director of vehicles of the department of revenue.

(v) "Division" means the division of vehicles of the department of revenue.

(w) "Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

(x) "Passenger vehicle" means every motor vehicle, as herein defined, which is designed primarily to carry 10 or fewer passengers, and which is not used as a truck.

(y) "Self-propelled farm implement" means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

(z) "Farm trailer" means every trailer as defined in subsection (h) of this section and every semitrailer as defined in subsection (i) of this section, designed and used primarily as a farm vehicle.

(aa) "Motorized bicycle" means every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has:

- (1) A motor which produces not more than 3.5 brake horsepower;
- (2) a cylinder capacity of not more than 130 cubic centimeters;
- (3) an automatic transmission; and
- (4) the capability of a maximum design speed of no more than 30 miles per hour.

(bb) "All-terrain vehicle" means any motorized nonhighway vehicle ~~48~~50 inches or less in width, having a dry weight of ~~1,000~~ 1,500 pounds or less, traveling on three or more ~~low-pressure non-highway~~ tires, having a seat designed to be straddled by the operator. As used in this subsection, ~~low-pressure non-highway~~ tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of ~~12~~ 14 inches or less, ~~and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.~~

(cc) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

- (1) A farm tractor;
- (2) a self-propelled farm implement;
- (3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;
- (4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;
- (5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.

(dd) "Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person that is incapable of a speed in excess of 15 miles per hour.

(ee) "Oil well servicing, oil well clean-out or oil well drilling machinery or equipment" means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is an oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

(ff) "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

(gg) "Electronic certificate of title" means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 2008 Supp. 8-135d, and amendments thereto.

(hh) "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck.

(ii) "Micro utility truck" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 144 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. "Micro utility truck" does not include a work-site utility vehicle.";

And by renumbering the remaining sections accordingly;

Also on page 1, in line 24, by striking "8-1402a is" and inserting "8-126 and 8-1402a are";

In the title, in line 10, following "Supp." by inserting "8-126 and"; in line 11, by striking "section" and inserting "sections" and the bill be passed as amended.

HB 2130 be amended on page 2, in line 43, by striking "\$10,000" and inserting "\$20,000"; and the bill be passed as amended.

HB 2131 be amended on page 1, after line 21, by inserting the following:

"Sec. 2. K.S.A. 2008 Supp. 8-132 is hereby amended to read as follows: 8-132. (a) Subject to the provisions of this section and K.S.A. 8-1,125, and amendments thereto, the division of vehicles shall furnish to every owner whose vehicle shall be registered one license plate for such vehicle. Such license plate shall have displayed on it the registration number assigned to the vehicle and to the owner thereof, the name of the state, which may be abbreviated, and the year or years for which it is issued. The same type of license plates shall be issued for passenger motor vehicles, rented without a driver, as are issued for private passenger vehicles.

(b) During calendar year 1975 commencing on the effective date of this act, and during every fifth calendar year thereafter, the division of vehicles shall furnish one license plate for any type of vehicle an owner registers or has the registration thereof renewed, but during the succeeding four-year period following calendar year 1975 and during the succeeding four-year period following every fifth calendar year subsequent to 1975, the division of vehicles shall not furnish any license plate for the renewal of a vehicle's registration. During calendar year 1976 and during each calendar year thereafter in which a license plate is not issued for the renewal of registration of a vehicle, the division of vehicles shall furnish one decal for the license plate issued for a vehicle as provided in K.S.A. 8-134, and amendments thereto, for each registration and renewal of registration of such vehicle. Notwithstanding the foregoing provisions of this subsection, whenever, in the discretion of the director of vehicles, it is determined that the license plates currently being issued and displayed are not deteriorating to the extent that their replacement is warranted, the director may adopt rules and regulations to extend the five-year issuance cycle provided for in this subsection by one year at a time, and in the same manner the director may further extend such cycle by one year at a time, successively as the director determines appropriate. If the cycle is extended at the expiration of the extended term, new license plates shall again be issued in the manner and for the term provided in such rules and regulations, except that the owner of a motor vehicle currently registered may continue to display the license plate currently being issued and displayed for a period not to exceed three registration years from the date of the expiration of the extended term. The division shall furnish one decal for each such license plate in accordance with the provisions [of] this subsection.

(c) Two personalized license plates may be issued to any owner or lessee of a passenger vehicle or a truck licensed for a gross weight of not more than 20,000 pounds, who makes proper application to the division of vehicles not less than 60 days prior to such owner's or lessee's renewal of registration date. Such application shall be on a form prescribed by the division and accompanied by a fee of \$40, which shall be in addition to any other fee required to renew the registration of such passenger vehicle under the laws of this state. One such personalized license plate shall be displayed on the rear of the vehicle and, at the option of the owner or lessee, the other license plate may be displayed on the front of the vehicle, except that no registration decal shall be issued pursuant to K.S.A. 8-134, and amendments thereto, for any such license plate displayed on the front of such vehicle. One personalized license plate may be issued to any owner of a motorcycle upon proper application in the same manner provided in this subsection (c) for passenger vehicles and trucks. The \$40 fee shall be paid only once during the registration period for which such license plates were issued, and any subsequent renewals during the registration period shall be subject only to the registration fee prescribed by K.S.A. 8-143, and amendments thereto. The division shall

design distinctive, personalized license plates to be issued which shall contain not more than seven letters or numbers on truck or passenger vehicle license plates and not more than five letters or numbers on motorcycle license plates, or a combination thereof, to be designated by the applicant in lieu of the letters and numbers required by K.S.A. 8-147, and amendments thereto, other than the letters required to designate the county in which such vehicle is registered. Unless the letters or numbers designated by the applicant have been assigned to another vehicle ~~of the same type registered in the same county~~, or unless the letters or numbers designated by the applicant have a profane, vulgar, lewd or indecent meaning or connotation, as determined by the director of vehicles, the division shall assign such letters or numbers to the applicant's vehicle, and the letters or numbers, or combination thereof, so assigned shall be deemed the registration number of such vehicle. Subject to the foregoing provisions, all license plates issued under this section shall be manufactured in accordance with K.S.A. 8-147, and amendments thereto. Such license plates shall be issued for a registration period of five years commencing in 1985 and each five years thereafter.

The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions of this act, including, without limitation, rules and regulations concerning (1) the procedure for insuring that duplicate license plates are not issued ~~in the same county throughout the state~~, (2) the procedure for reserving distinctive license plates for the purpose of obtaining the same on each annual renewal of registration, (3) the procedure for allowing the transfer of personalized license plates from one vehicle to another for which such license plates were originally issued, when the title to the original vehicle has not been transferred and the name or names of the owner or owners listed on the titles to both vehicles are identical, and (4) procedures necessary to coordinate this act with other laws of this state governing registration of vehicles. The director of vehicles shall remit all moneys received by the division of vehicles under this section 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 state highway fund.”;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 22, by striking “is” and inserting “and K.S.A. 2008 Supp. 8-132 are”;

In the title, in line 10, after the semicolon by inserting “relating to personalized license plates;”; also in line 10, after “and” by inserting “K.S.A. 2008 Supp. 8-132 and”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

HB 2134 be amended on page 1, in line 32, before the period by inserting “, except that the division shall delay the manufacturing and issuance of such distinctive license plate until the division has received \$40,000 from the collection of the personalized license plate fee required under subsection (a). The personalized license plate fees collected pursuant to this section shall be credited to the distinctive license plate fund in accordance with subsection (f)(2), until the division has received such \$40,000”; in line 36, by striking “\$10,000” and inserting “\$20,000”; and the bill be passed as amended.

HB 2258, as amended by House Committee of the Whole, be amended on page 8, in line 26, by striking all following “hicles”; by striking all in line 27; in line 28, by striking all preceding the period and inserting “, in whole or in part”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 313** be passed.

Also, **SCR 1614** be adopted.

SB 306 be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

SB 146 be amended on page 1, in line 16, by striking “When” and inserting “On and after the effective date of this act, when”; in line 30, after the period by inserting “The state agency which places an officer or employee on furlough shall pay and remit required employer and employee contributions to the system pursuant to the state payroll system during the period such officer or employee is placed on furlough.”; in line 35, after “services” by inserting “, including, but not limited to, the compilation of records of furlough plans in effect by state agencies and officers or employees who have been placed on furlough”; in line 43, after “member” by inserting “or employee”;

On page 2, in line 1, after “regents” by inserting “who are members of the Kansas public employees retirement system, the Kansas police and firemen’s retirement system or the retirement system for judges”; after line 1, by inserting a new section to read as follows:

“New Sec. 2. In order to achieve maximum flexibility in facilitating agencies to provide continuing services without unnecessarily closing offices or programs during furloughs, all agencies shall develop plans for furloughs that shall provide for furloughs on an hourly basis away from work during a regular 40-hour work week and shall compute the hours absent from work during each two-week pay period for reporting purposes. No office or program shall be closed as a result of all-day layoffs unless all other alternatives using hourly layoffs have been determined to not produce the budget savings necessary.”;

And by renumbering sections accordingly;

On page 1, in the title, in line 9, after “concerning” by inserting “state officers and employees; relating to furloughs or reduction in compensation;”; also in line 9, by striking the semicolon; in line 10, by striking “relating to” and inserting a comma; also in line 10, by striking all following “benefits”; in line 11, by striking all before the semicolon; and the bill be passed as amended.

SB 205 be amended on page 2, in line 13, before the period, by inserting “or approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto, except that such approval may be given while the legislature is in session”; also in line 13, by striking all after the period; by striking all in lines 14 and 15; in line 25, by striking all after the period; by striking all in lines 26 through 29; in line 30, by striking all before “No”; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Emler the following report was adopted:

SB 208 be amended by adoption of the committee amendments.

Citing rule 51, Senator D. Schmidt made a motion to strike the enacting clause. Senator D. Schmidt withdrew the motion. Citing rule 26, Senator D. Schmidt made a motion to refer **SB 208** to the Judiciary Committee.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, March 17, 2009.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*
PAT SAVILLE, *Secretary of the Senate.*

