

Journal of the Senate

TWENTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 11, 2010—2:30 p.m.

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

Omniscient Father,

Help us to know who is telling the truth. One side tells us one thing, and the other just the opposite.

And if neither side is telling the truth, we would like to know that, too.

And if each side is telling half the truth, give us wisdom to put the right halves together.

In Jesus' Name,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 543, An act concerning telecommunications; relating to the authorization of certain programs; amending K.S.A. 66-1,190 and repealing the existing section, by Committee on Ways and Means.

SB 544, An act concerning the metropolitan transit authority act; definitions; amending K.S.A. 12-2802 and repealing the existing section, by Committee on Ways and Means.

SB 545, An act concerning employment security law; relating to benefits and employer contributions; amending K.S.A. 2009 Supp. 44-703, 44-705 and 44-706 and repealing the existing sections; also repealing K.S.A. 2009 Supp. 44-704c, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to Committees as indicated:

Commerce: **HB 2553**.

Education: **HB 2433**.

Ethics and Elections: **SB 542**.

Judiciary: **HB 2455**, **HB 2456**.

Transportation: **SR 1821**; **HB 2436**, **HB 2437**, **HB 2486**, **HB 2535**.

Utilities: **SB 540**.

Ways and Means: **SB 541**.

CHANGE OF REFERENCE

The President withdrew **SB 510** from the Committee on **Natural Resources**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 538** from the Committee on **Education**, and referred the bill to the Committee on **Transportation**.

The President withdrew **SB 418** from the Committee on **Ethics and Elections**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 369** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on **Judiciary**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2454**, **HB 2469**.

Also, passage of **Senate Substitute for HB 2222**, as amended.

The House adopts the conference committee report on **HB 2353**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2454, **HB 2469** were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Emler the Senate nonconcurred in the House amendments to **Senate Substitute for HB 2222** and requested a conference committee be appointed.

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

MESSAGE FROM THE HOUSE

The House accedes to the request of the Senate for a conference on **Senate Substitute for HB 2222** and has appointed Representatives Yoder, Merrick and Feuerborn as conferees on the part of the House.

FINAL ACTION ON CONSENT CALENDAR

SB 463 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

SB 463, An act concerning county bonded debt limits; amending K.S.A. 2009 Supp. 10-306 and repealing the existing section.

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

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

The bill passed.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1820—

A RESOLUTION supporting current guidelines for breast cancer screening.

WHEREAS, Breast cancer is the most common cancer among women and 1,790 new cases were diagnosed in Kansas in 2009; and

WHEREAS, 370 Kansas women died of breast cancer in 2009; and

WHEREAS, The survival rate for breast cancer detected early before it has spread is 98%, but with late detection, when the cancer has spread to distant parts of the body, the chance of survival is reduced to 27%; and

WHEREAS, In November, the United States Preventive Services Task Force recommended a change in the guidelines for breast self examination and routine screening for women; and

WHEREAS, The United States Department of Health and Human Services and the American Cancer Society continue to strongly support lifesaving breast cancer screening; and

WHEREAS, The American Cancer Society reports that 22% of breast cancer deaths occur in women diagnosed in their fifties, and 17% of breast cancer deaths occur in women in their forties and women over 75; Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we reiterate our support for breast self examination and for lifesaving breast cancer screening through routine mammography; and

Be it further resolved: That we commend the commitment of the American Cancer Society to educate women of the benefits of mammograms and self breast examinations, and to make women aware of their options in treatment, reconstruction and recovery in the event of a diagnosis of breast cancer; and

Be it further resolved: That the Secretary of the Senate be directed to present enrolled copies of this resolution to Tina Herold, Debra Brant and Lorene Colyer, and to send three copies of this resolution to the American Cancer Society.

On emergency motion of Senator Barnett **SR 1820** was adopted unanimously.

Senator Barnett introduced Debra Brant and Tina Herold for recognition of their support of breast cancer screening. Others in attendance were acknowledged for their support of the program.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 430** be amended on page 1, after line 13, by inserting the following:

“Section 1. K.S.A. 2009 Supp. 74-50,154 is hereby amended to read as follows: 74-50,154.

(a) As used in this act: (1) “Business support services” means business counseling, technical assistance and business planning services provided to existing or prospective small businesses or entrepreneurs;

(2) “contributions” means and includes the donation of cash or property other than used clothing in an amount or value of \$250 or more. Contributions shall be valued as follows:

(A) Stocks and bonds contributed shall be valued at the stock market price on the date of transfer;

(B) personal property items contributed shall be valued at the lesser of the item’s fair market value or cost to the donor and may be inclusive of costs incurred in making the contribution. Such value shall not include sales tax;

(C) contributions of real estate are allowable for credit only when title of such real estate is in fee simple absolute and is clear of any encumbrances; and

(D) the amount of credit allowable shall be based upon the lesser of two current independent appraisals conducted by state licensed appraisers;

(3) “department” means the department of commerce;

(4) “entrepreneur” means an individual creating a new business, service or product;

(5) “region” means multi-county areas as defined by the secretary of commerce;

(6) “regional business development fund” means an authorized and audited fund that is created by taxpayer contributions, interest income and investment income and is managed by the regional foundation board of directors for the purposes of economic and leadership development in the region;

(7) “regional foundation” means any organization in Kansas that demonstrates capacity to provide economic development services to regions as defined by this act, and: (A) Has obtained a ruling from the internal revenue service of the United States department of treasury that such organization is exempt from income taxation under the provisions of section 501(c)(3) or 501(c)(6) of the federal internal revenue code;

(B) has been designated as a certified development company by the United States small business administration;

(C) has been designated as an economic development district by the United States department of commerce's economic development administration;

(D) has been organized as a regional planning commission under K.S.A. 12-744 et seq., and amendments thereto, or its predecessor, K.S.A. 12-716 et seq., and amendments thereto; or

(E) is incorporated in the state of Kansas as a nonstock, nonprofit corporation;

(8) "regional leadership development" means training and education that enable a region to develop community leadership that strengthens the economic and social environment in that region;

(9) "rural community" means any city having a population of fewer than 50,000 or except as otherwise provided, any unincorporated area. Unincorporated areas within any county having a population of more than 100,000 are not eligible;

(10) "secretary" means the secretary of the department of commerce;

(11) "small business" means an independently owned and operated business having fewer than 100 full-time equivalent employees;

(12) "taxpayer" means: (A) Any business entity authorized to do business in the state of Kansas which is subject to the state income tax imposed by the provisions of the Kansas income tax act;

(B) any individual subject to the state income tax imposed by the provisions of the Kansas income tax act;

(C) any national banking association, state bank, trust company or savings and loan association paying an annual tax on its net income pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated; or

(D) any insurance company paying the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto; and

(13) "technology improvements" means a project that results in the ability of the region to enhance service in areas, including broadband access, web site creation, wireless internet services, computer programming, computer servers, computer networks, computer databases, electronic training modules, electronic media and any other technological areas deemed eligible by the secretary.

(b) For taxable years commencing after December 31, 2004, any taxpayer contributing to a regional foundation designated by the secretary of commerce, shall be allowed a credit, as provided in this act, against the tax imposed by the Kansas income tax act, the tax on net income of national banking associations, state banks, trust companies or savings and loan associations imposed under article 11 of chapter 79 of the Kansas Statutes Annotated, or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, if the proposal of the regional foundation is approved pursuant to this act.

(c) (1) On December 31, 2007, June 30, 2008, and each June 30 thereafter, each regional foundation shall transfer 5% of funds raised in the previous fiscal year from the marketing of the rural business tax credits to be credited to the enterprise facilitation fund created in K.S.A. 2009 Supp. 74-50,155, and amendments thereto.

(2) The secretary of commerce may adopt rules and regulations for the disbursement of regional foundation funds to the enterprise facilitation fund.

(d) (1) The secretary of commerce is hereby authorized to adopt rules and regulations for establishing criteria for evaluating proposals to designate regional foundations as defined by this act with the assistance of the secretary of revenue.

(2) The proposal shall set forth the program to be conducted, why the program is needed, the estimated amount to be invested in the program, composition of the board that shall be making investment decisions, policies stating the organization shall offer services to all counties in that region and the plans for implementing the program.

(3) The secretary of commerce shall select regional foundations pursuant to rules and regulations adopted pursuant to subsection (d)(1) to use the sale of credits to establish regional business development funds.

(4) The total amount of credits allowed under this act shall not exceed \$2,500,000 for fiscal year 2005; \$2,500,000 for fiscal year 2006; ~~and~~ \$2,000,000 per year for fiscal years 2007 through, and including, 2010, and fiscal year 2012, and \$1,800,000 for fiscal year 2011. Each region as defined by this act shall receive an equal share of this allocation.

(5) Any credits not sold by such regional foundations shall be reclaimed by the secretary from such region and redistributed to other regions that sold all credits previously issued.

(6) The secretary shall annually review and approve or disapprove the proposal of each designated regional foundation for continued eligibility for tax credits. The department of commerce retains that right to reclaim credits in such cases the regional foundation closes or there is demonstrated violation of the organization's policies. Changes to the investment policies of each regional foundation are subject to approval of the secretary.

(e) Each regional foundation shall administer a regional business development fund. The sums generated by contributions to each regional business development fund are intended to be distributed to qualified entrepreneurs for the purposes of economic and leadership development in the region. Such sums shall be allocated by each regional foundation as follows:

(1) Not less than 60% of such funds may be allocated for job creation or retention;

(2) not more than 10% of such funds shall be allocated for administrative costs in overseeing particular projects; and

(3) the remaining funds may be allocated towards other eligible activities as provided in subsection (f) in a manner that fits the region's priorities and needs.

(f) Funds in the regional business development funds may be utilized by the regional foundation for one or more of the following eligible activities:

(1) Business start-ups;

(2) business expansion;

(3) business retention;

(4) business support services;

(5) regional leadership development;

(6) technology improvements; and

(7) administrative services.

(g) All interest generated on idle funds administered by the regional foundation shall be used by the foundation's board in accordance with subsections (e) and (f).

(h) Any regional foundation may increase or decrease the allocation percentages set forth in subsection (e) only upon approval of such adjustments by the secretary.

(i) (1) The amount of credit allowed pursuant to this act, shall not exceed 75% of the total amount contributed during the taxable year by the taxpayer to a regional foundation approved pursuant to this act.

(2) If the amount of the credit allowed by this act, exceeds the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.

(j) The provisions of this act shall be applicable to all taxable years beginning after December 31, 2004.

Sec. 2. K.S.A. 2009 Supp. 79-32,211 is hereby amended to read as follows: 79-32,211. (a) For all taxable years commencing after December 31, 2006, there shall be allowed a tax credit against the income, privilege or premium tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, or the premiums tax and privilege fees imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto, in an amount equal to 25% of qualified expenditures incurred in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan by a qualified taxpayer if the total amount of such expenditures equal \$5,000 or more; or in an amount equal to 30% of qualified expenditures incurred in the restoration and preservation of a qualified historic structure which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code and which is not income producing pursuant to a qualified rehabilitation plan by a qualified taxpayer if the total amount of such expenditures equals \$5,000 or more. ~~In no event shall the total amount of credits allowed under this section exceed \$3,750,000 for fiscal years 2010 and 2011.~~ If the amount of such tax credit exceeds the qualified taxpayer's income, privilege or premium tax liability for the year in which the qualified rehabilitation plan was placed in service, as defined by section 47(b)(1) of the federal internal revenue code and federal regulation section 1.48-12(f)(2),

such excess amount may be carried over for deduction from such taxpayer's income, privilege or premium tax liability in the next succeeding year or years until the total amount of the credit has been deducted from tax liability, except that no such credit shall be carried over for deduction after the 10th taxable year succeeding the taxable year in which the qualified rehabilitation plan was placed in service.

(b) As used in this section, unless the context clearly indicates otherwise:

(1) "Qualified expenditures" means the costs and expenses incurred by a qualified taxpayer in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan which are defined as a qualified rehabilitation expenditure by section 47(c)(2) of the federal internal revenue code;

(2) "qualified historic structure" means any building, whether or not income producing, which is defined as a certified historic structure by section 47(c)(3) of the federal internal revenue code, is individually listed on the register of Kansas historic places, or is located and contributes to a district listed on the register of Kansas historic places;

(3) "qualified rehabilitation plan" means a project which is approved by the cultural resources division of the state historical society, or by a local government certified by the division to so approve, as being consistent with the standards for rehabilitation and guidelines for rehabilitation of historic buildings as adopted by the federal secretary of interior and in effect on the effective date of this act. The society shall adopt rules and regulations providing application and approval procedures necessary to effectively and efficiently provide compliance with this act, and may collect fees in order to defray its approval costs in accordance with rules and regulations adopted therefor; and

(4) "qualified taxpayer" means the owner of the qualified historic structure or any other person who may qualify for the federal rehabilitation credit allowed by section 47 of the federal internal revenue code.

If the taxpayer is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or a limited liability company, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the members of such limited liability company in the same manner as such shareholders, partners or members account for their proportionate shares of the income or loss of the corporation, partnership or limited liability company, or as the corporation, partnership or limited liability company mutually agree as provided in the bylaws or other executed agreement. Credits granted to a partnership, a limited liability company taxed as a partnership or other multiple owners of property shall be passed through to the partners, members or owners respectively pro rata or pursuant to an executed agreement among the partners, members or owners documenting any alternate distribution method.

(c) Any person, hereinafter designated the assignor, may sell, assign, convey or otherwise transfer tax credits allowed and earned pursuant to subsection (a). The taxpayer acquiring credits, hereinafter designated the assignee, may use the amount of the acquired credits to offset up to 100% of its income, privilege or premiums tax liability for either the taxable year in which the qualified rehabilitation plan was first placed into service or the taxable year in which such acquisition was made. Unused credit amounts claimed by the assignee may be carried forward for up to five years, except that all such amounts shall be claimed within 10 years following the tax year in which the qualified rehabilitation plan was first placed into service. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the cultural resources division of the state historical society in writing within 90 calendar days following the effective date of the transfer and shall provide any information as may be required by such division to administer and carry out the provisions of this section. The amount received by the assignor of such tax credit shall be taxable as income of the assignor, and the excess of the value of such credit over the amount paid by the assignee for such credit shall be taxable as income of the assignee.”;

And by renumbering sections accordingly;

Also on page 1, in line 14, by striking "Section" and inserting "Sec."; in line 20, before "79-32,212" by inserting "79-32,211,"; in line 42, by striking "74-50,154,";

On page 2, in line 1, after the comma, by inserting “and for tax year 2009, for the tax credit provided under K.S.A. 2009 Supp. 74-50,154, and amendments thereto.”; by striking all in line 28, and inserting the following:

“Sec. 4. K.S.A. 2009 Supp. 74-50,154, 79-32,211 and 79-32,264 are hereby repealed.”;

On page 1, in the title, in line 10, after “Supp.” by inserting “74-50,154, 79-32,211 and”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

Also, **SB 518** be amended on page 1, in line 29, by striking “of \$20” and inserting “fixed by the superintendent of the Kansas highway patrol by rules and regulations in an amount not to exceed \$25”

On page 2, in line 23, following “designee” by inserting “or new vehicle dealer”; in line 25, following “designee” by inserting “or new vehicle dealer”; and the bill be passed as amended.

Committee on **Education** recommends **SB 354, SB 355** passed.

Also, **SB 362** be amended on page 1, by striking all in lines 33 through 43;

On page 2, by striking all in lines 1 through 7 and inserting the following:

“(c) A board may adopt a resolution under which written notice of the board’s intention to not renew a contract may be given to any teacher after May 1 but no later than June 1 of the school year. If a resolution is adopted pursuant to this subsection, a teacher shall give written notice to the board that the teacher does not desire continuation of a contract no later than June 15 or, if applicable, not later than 15 days after the issuance of a unilateral contract as authorized by K.S.A. 72-5428a, and amendments thereto, whichever is the later date.”;

Also on page 2, by striking all in lines 21 through 35 and inserting the following:

“(c) A board may adopt a resolution under which written notice of a board’s intention to not renew the contract of employment of an administrator may be given to the administrator after May 1 but no later than June 1 of the year in which the term of the administrator’s contract expires. If a resolution is adopted under this subsection, an administrator shall give written notice to the board of the administrator’s rejection of renewal of a contract of employment on or before June 15 of such school year.”; and the bill be passed as amended.

Committee on **Ethics and Education** recommends **SB 420, SB 423** be passed.

Also, **SB 416** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 416,” as follows:

“Substitute for SENATE BILL No. 416

By Committee on Ethics and Elections

“AN ACT concerning governmental ethics; eliminating the filing requirements for certain faculty of state education institutions; amending K.S.A. 2009 Supp. 46-247 and repealing the existing section; also repealing K.S.A. 2009 Supp. 46-247a.”;

and the substitute bill be passed.

SB 417 be amended on page 1, in line 17, before “of” by inserting “and employer”; in line 19, by striking “industry” and inserting “employer”; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 389** be amended on page 1, in line 26, by striking all after “include”; in line 27, by striking “corporation” and inserting “:

(1) Any subscription agreement issued by a nonprofit dental service corporation.

(2) Any policy of health insurance purchased by an individual.

(3) To the extent permitted by law, the health insurance plan for Kansas children established pursuant to K.S.A. 38-2001 et seq. and amendments thereto.

(4) To the extent permitted by law, the state medical assistance program under medicaid established pursuant to K.S.A. 39-708c and amendments thereto”; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 437, SB 438, SB 439, SB 440, SB 441** be passed and, because the committee is of the opinion that the bills are of a noncontroversial nature, be placed on the consent calendar.

Also, **SB 305**, as amended by Senate Committee, be amended on page 2, in line 20, by striking “: (1) Officers, directors.”; by striking all in lines 21 through 25; in line 26, by striking “(2)”; in line 33, by striking “(A)” and inserting “(1)”; in line 43, by striking “(B)” and inserting “(2)”;;

On page 3, in line 3, by striking "(C)" and inserting "(3)"; in line 16, by striking "(D)" and inserting "(4)"; and the bill be passed as amended.

SB 398 be amended on page 3, in line 6, by striking "certificate" and inserting "articles"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 489** be amended on page 1, in line 17, by striking "distributes" and inserting "mails or delivers, using commercial courier or overnight or other delivery services,;" and the bill be passed as amended.

Also, **SB 490** be amended on page 4, in line 11, after "or" by inserting "K.S.A. 2009 Supp.;" and the bill be passed as amended.

SB 491 be amended on page 1, in line 30, by striking "30" and inserting "90"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 396** be amended on page 1, in line 20, by striking "will" and inserting "shall"; in line 21, after "(c)" by inserting "on June 30"; in line 23, after "The" by inserting "following"; also in line 23, after "funds" by inserting "are"; also in line 23, by striking "are"; by striking all in lines 42 and 43;

And by relettering the remaining subsections according;

On page 2, in line 1, by striking "When" and inserting "In any fiscal year,;" also in line 1, by striking "deposited"; also in line 1, by striking "is equal to or"; in line 2, by striking "exceeds" and inserting "shall not exceed"; also in line 2 by striking ", the secretary shall not request transfer of fees as pro-"; in line 3, by striking "vided in subsection (b)"; 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 342, SB 387, SB 446** be passed.

SCR 1615 be amended by the adoption of the committee amendments, and the resolution be adopted as amended.

SB 452 be amended by adoption of the committee amendments, be further amended by motion of Senator Brungardt on page 2, in line 35, after "violates" by inserting "only";

On page 3, in line 1, after "adjudicated" by inserting "only" and **SB 452** be passed as further amended.

SB 479 be amended by adoption of the committee amendments, be further amended by motion of Senator D. Schmidt on page 3, in line 38, by striking "This includes, but is not" and inserting "Such information shall be"; also in line 38, by striking the comma after "to" and **SB 479** be passed as further amended.

SB 382, SB 414 be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 342, SB 387, SB 446, SB 452, SB 479; SCR 1615** were advanced to Final Action and roll call.

SB 342, An act concerning cigarette lighters; prohibiting the sale of novelty cigarette lighters.

On roll call, the vote was: Yeas 32, Nays 8, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Steinger, Taddiken, Teichman, Umbarger, Vratil.

Nays: Bruce, Huelskamp, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Wagle.

The bill passed.

SB 387, An act concerning certain claims against the state, making appropriations, authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain disbursements, procedures and acts incidental to the foregoing.

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

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

The bill passed.

SB 446, An act concerning the department of administration; relating to approval of state contracts; amending K.S.A. 20-156, 20-1a13, 74-8704, 74-8709, 75-2540, 75-4101a, 76-720 and 76-770 and K.S.A. 2009 Supp. 40-3403, 74-8705, 74-99b16, 75-37,143, 75-4101, 75-4105, 75-5288, 76-760, 76-769 and 76-786 and repealing the existing sections; also repealing K.S.A. 75-3744.

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

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

The bill passed.

SB 452, An act concerning minors; relating to purchase or consumption of alcoholic beverages by a person less than 18 years of age; detention; amending K.S.A. 2009 Supp. 41-727 and repealing the existing section.

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

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

The bill passed, as amended.

SB 479, An act concerning unclaimed property; regarding tax information; disclosure of information to the state treasurer for the purpose of locating unclaimed property owners; amending K.S.A. 2009 Supp. 79-3234 and repealing the existing section.

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

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

The bill passed, as amended.

SCR 1615, 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.

On roll call, the vote was: Yeas 33, Nays 7, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kultala, Umbarger.

The resolution was adopted, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote “No” on SCR 1615. I recognize along with many citizens and legislators the importance of recognizing the value of the Tenth Amendment of the U.S. Constitution. However I have specific objections to wording in this resolution, believing that the findings in *New York v. United States*, rather than holding that “Congress may not simply commandeer the legislative and regulatory processes of the state” more specifically found that Congress could, if it wished, pre-empt entirely state regulation in this area and that Congress may not commandeer the States’ legislative processes by directly compelling them to enact and enforce a federal regulatory program, but must exercise legislative authority directly upon individuals. The resolution states “WHEREAS, Many federal laws are in direct violation of the Tenth Amendment to the Constitution of the United States”, yet there was no testimony regarding any specific laws that are in violation, and that “*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” calls for repeal of much legislation that we, as American citizens, embrace.—MARCI FRANCISCO

MR. PRESIDENT: I am pleased to vociferously vote “NO” on **SCR 1615**. As a native Kansan and a proud American, who pledges allegiance practically every day to the flag of the United States of America, even “mere” words of sedition from the indivisibility of our great, though sometimes imperfect, country disappoint and even alarm me.

Kansas, though sovereign, is a part of a federal system which is the strongest nation on the face of the planet.

David Haley, as citizen and as Kansas Senator, will proudly defend the sanctity of this Union against any adversary . . . foreign, or domestic. May God bless Kansas and may God bless the United States of America.—DAVID HALEY

MR. PRESIDENT: I vote NO on **Senate Concurrent Resolution 1615**.

I have grave concerns about this resolution’s third resolve clause: “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.”

This language appears to advocate for the repeal of “all compulsory federal legislation,” that could very well include the repeal of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Even though the resolution is non-binding, I cannot in good conscience go on the record as if supporting the repeal of these two federal laws, which granted fundamental rights of U.S. citizenship to African-Americans.—ANTHONY HENSLEY.

Senators Faust-Goudeau, Haley, Holland, Kultala and Umbarger request the record to show they concur with the “Explanation of Vote” offered by Senator Hensley on **SCR 1615**.

On motion of Senator D. Schmidt the Senate adjourned until 9:00 a.m., Friday, February 12, 2010.

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

