

Journal of the Senate

TWENTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, February 17, 2010—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,
Recently when I listened
To the Senate's proceedings,
A thought occurred to me
Which I had been needing.
After Senators explain a bill
They want to have passed,
They report it "favorable for passage."
And hope it passes fast.
When we appear before You, Father,
We believe Your Son will say,
"Favorable for passage . . .
Your faith has paved the way."
May we prepare for that occasion
With our faith in Your Son,
And "favorable for passage"
Means our victory has been won.
I pray in the Name of Jesus Christ,
AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 549, An act creating a private cause of action for victims of child pornography, by Committee on Federal and State Affairs.

SB 550, An act concerning alcoholic beverages; relating to retailer's licenses under the Kansas liquor control act; amending K.S.A. 41-308 and 41-713 and K.S.A. 2009 Supp. 41-102, 41-311, 41-313 and 41-710 and repealing the existing sections; also repealing K.S.A. 41-103 and 41-711, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Financial Institutions & Insurance: **HB 2473**, **HB 2492**.

Natural Resources: **HB 2434**, **HB 2548**.

Transportation: **HB 2485**.

CHANGE OF REFERENCE

The Vice President withdrew **SB 517** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Financial Institutions and Insurance**.

The Vice President withdrew **SB 443** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Ethics and Elections**.

The Vice President withdrew **SB 470** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Local Government**.

The Vice President withdrew **SB 366, SB 384, SB 402, SB 450** from the Committee on **Ways and Means**, and rereferred the bills to the Committee on **Utilities**.

The Vice President withdrew **SB 476, SB 516** from the Committee on **Assessment and Taxation**, and referred the bills to the Committee on **Ways and Means**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2415, HB 2442**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2415, HB 2442 were thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Schodorf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1822—

A RESOLUTION congratulating and commending the 2010 Horizon Award Program educators.

WHEREAS, Thirty-one beginning educators from across the state have been named as Kansas Horizon Award Program educators; and

WHEREAS, The Kansas Horizon Award Program, sponsored by Kansas State Department of Education, identifies and recognizes representatives of excellent teaching in the elementary and secondary classrooms of the state. The mission of the Kansas Horizon Award Program is to recognize exemplary first-year teachers who perform in a way that distinguishes them as outstanding; and

WHEREAS, The Kansas Horizon Award Program, currently in its eighth year, allows all school districts in the state an opportunity to nominate one elementary and one secondary teacher for the award. To be eligible for a Kansas Horizon Award, teachers must have successfully completed their first year of teaching and have performed in such a way as to distinguish themselves as outstanding. The Kansas Horizon Award Program is a regional competition with four regions corresponding to the state's United States congressional districts. Four elementary and four secondary classroom teachers may be selected for the award from each district; and

WHEREAS, This year's recipients are: Region 1: Jesse Ediger, Graber Elementary School, Hutchinson USD 308; Cole Fredrickson, Marysville Jr/Sr High School, Marysville USD 364; Grant Geis, Emporia High School, Emporia USD 253; Kevin Poland, Salina High School South, Salina USD 305; Kristy Randel, Grant F. Timmerman Elementary School, Emporia USD 253; Anastasia Riedel, Schilling Elementary School, Salina USD 305; Scott Schoenfeld, Southeast of Saline Elementary School, Southeast of Saline USD 306; Alex Underwood, Russell High School, Russell County USD 407; and

Region 2: Amy Bartlow, George Nettels Elementary School, Pittsburg USD 250; Ashley Beason, Washburn Rural Middle School, Auburn Washburn USD 437; Abby Burnett, Paola Middle School, Paola USD 368; Benjamin George, Manhattan High School, Manhattan-Ogden USD 383; Laura Hammond, Shawnee Heights Elementary School, Shawnee Heights USD 450; Jenna Jones, Louisburg High School, Louisburg USD 416; Kala Robinson, Guthridge Elementary School, Parsons USD 503; Sarah Smith, Broadmoor Elementary School, Louisburg USD 416; and

Region 3: Andrew Bricker, Lawrence High School, Lawrence USD 497; Kylee Dardine, Nike Elementary School, Gardner Edgerton USD 231; Lindsay Frazier, Santa Fe Trail Elementary School, Shawnee Mission USD 512; Michael Karlin, Gardner Edgerton High

School, Gardner Edgerton USD 231; Megan McMillian, Indian Valley Elementary School, Blue Valley USD 229; Kathy Pickens, Heatherstone Elementary School, Olathe USD 233; Alisa Stevenson, Pleasant Ridge Middle School, Blue Valley USD 229; Tara Wycoff, Lexington Trails Middle School, DeSoto USD 232; and

Region 4: Jarrod Craig, Nelson Elementary School, Haysville USD 261; Shanda Day, Amelia Earhart Elementary School, Goddard USD 265; Eryn Elder, Wichita High School South, Wichita USD 259; Joe Gehrer, Meadowlark Elementary School, Andover USD 385; Taylor Harrison, Valley Center Middle School, Valley Center USD 262; Heidi Johnson, Santa Fe Middle School, Newton USD 373; Joshua Kelly, Tri-City Day School, Haysville USD 261: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the 2010 Kansas Horizon Award Program educators for outstanding performance in their chosen career; and

Be it further resolved: That the Secretary of the Senate provide 31 enrolled copies of this resolution to the Commissioner of Education for forwarding to each educator so honored plus one copy for the Commissioner of Education.

On emergency motion of Senator Schodorf **SR 1822** was adopted unanimously.

Senator Schodorf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1823—

A RESOLUTION congratulating and commending the 2009 Kansas National Board Certified Teachers.

WHEREAS, Twenty-four of Kansas' finest educators have satisfied the highest professional qualifications of the National Board for Professional Teaching Standards to be designated as National Board Certified Teachers. They will be recognized as such at a program on February 25; and

WHEREAS, The 2009 Kansas National Board Certified Teachers are: Tamela Biswell, Wamego High School, Wamego USD 320; Marilyn Clark, Indian Creek Elementary School, Olathe USD 233; Dorothy Coleman, Sheridan Elementary School, Geary County USD 475; Jill Cundiff, Lakewood Middle School, Blue Valley USD 229; Amanda Davis, Blue Valley West High School, Blue Valley USD 229; Janel Fenster, Newton Sr High School, Newton USD 373; Eileen Hackley, Westwood Elementary School, Geary County USD 475; Megan Hankins, Chisholm Trail Jr High School, Olathe USD 233; Phillip Holmes, Pioneer Trail Jr High School, Olathe USD 233; Jennifer Holt, Eugene Ware Elementary School, Kansas City USD 500; Janet Kellogg, Northview Elementary School, Manhattan-Ogden USD 383; Rebecca Leake, Manchester Park Elementary School, Olathe USD 233; Ann Lee, Manhattan High School West/East Campus, Manhattan-Ogden USD 383; Kimberly Lilley, Blue Valley West High School, Blue Valley USD 229; Marlene McDaniel, Washburn Rural Middle School, Auburn Washburn USD 437; Suzanne Oertel, Washburn Rural High School, Auburn Washburn USD 437; Joel Schaefer, Andover High School, Andover USD 385; Stephanie Sullivan, Emporia Alternative School, Emporia USD 253; Amy Swan, Cedar Creek Elementary School, Olathe USD 233; Stacy Vandemark, Pleasant Ridge Elementary School, Olathe USD 233; Melissa Vanzant, Trailridge Middle School, Shawnee Mission USD 512; Melinda Vicin, Cloud Elementary School, Wichita USD 259; Jennifer Wilson, Wichita North High School, Wichita USD 259; Kimberly Zeller, Rochester Elementary School, Seaman USD 345; and

WHEREAS, National Board Certification, a voluntary process established by the National Board for Professional Teaching Standards, is a symbol of professional teaching excellence. It is achieved through a performance-based assessment process that measures a teacher's practice against high and rigorous advanced standards to demonstrate accomplished practice. Through a series of assessments, teachers demonstrate their subject matter knowledge, provide evidence that they know how to teach their subjects to students most effectively, and demonstrate their ability to manage and measure student learning; and

WHEREAS, The National Board for Professional Teaching Standards is an independent, nonprofit, non-partisan and non-governmental organization. Its mission is to advance the quality of teaching and learning by: Maintaining high and rigorous standards for what ac-

complished teachers should know and be able to do; providing a national voluntary system certifying teachers who meet these standards; and advocating related education reforms to integrate National Board Certification in American education and to capitalize on the expertise of National Board Certified Teachers: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend each of these outstanding educators who have attained the status of National Board Certified Teachers; and

Be it further resolved: That the Secretary of the Senate provide 24 enrolled copies of this resolution to the Commissioner of Education for forwarding to each of the teachers so honored plus a copy to the Commissioner of Education.

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

Senator Teichman introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1824—

A RESOLUTION honoring Larry W. Magill, Jr.

WHEREAS, Larry W. Magill, Jr. passed away on January 6, 2010; and

WHEREAS, Larry served the Kansas Association of Insurance Agents (KAIA) in several executive and managerial roles for over 25 years; and

WHEREAS, Before returning to KAIA in June of 2000, Larry was CEO of AMS Users' Group, an 11,000 member national organization with 19 staff members; and

WHEREAS, Larry initiated the formation of KAIA's for-profit entity and helped develop their non-dues revenue programs to include multi-line public entity safety groups, miscellaneous errors and omissions programs and a group workers compensation fund with the Kansas Chamber of Commerce and Industry along with member E&O and group medical programs; and

WHEREAS, Larry managed the Independent Insurance Agents of America's (IIAA) for-profit operations for three years with responsibility for all IIAA's insurance programs including their immensely successful member errors and omissions professional liability program, flood, personal lines Eagle Agency, employment practices liability, directors and officers liability, group medical, dental, life, disability and a full range of retirement programs; and

WHEREAS, Larry began his insurance career first as a bond underwriter for the USF&G insurance company, then as an independent broker for Gilbert-Magill Co. and finally as a marketing representative for Fireman's Fund; and

WHEREAS, During his career Larry earned the Chartered Property Casualty Underwriter (CPCU) and Chartered Life Underwriter (CLU) designations followed by the Accredited Advisor in Insurance (AAI) designation; and

WHEREAS, Larry has served as the President of the Kansas Society of Association Executives (KSAE), chaired the Big I state association executives' organization (IAAE) and earned his Certified Association Executive (CAE); and

WHEREAS, Larry served on the Board of Directors of the Topeka Independent Business Association (TIBA) and as Chairman for the Kansas Insurance Education Foundation (KIEF) Board of Trustees; and

WHEREAS, Larry has taught both insurance courses as well as association management courses for KSAE and was honored with the Agent of Merit Award by the Kansas Insurance Agents/1752 Club in 2009, the Ron Stryker Key Member Award by TIBA in 2008, the KIEF Hall of Fame Award in 1995, and the CPCU Society's Pace Setter Award in 1994; and

WHEREAS, Larry was a mainstay in the hallways of the Kansas Capitol for many years, always diligently representing the interests of the independent insurance agent; and

WHEREAS, Larry was an avid outdoor sportsman; and

WHEREAS, Larry founded the Capitol Classic Fishing Tournament which is in its fourth consecutive year and enjoyed by all participants; and

WHEREAS, Larry, being a fishing and hunting enthusiast was a strong supporter of the Kansas Sportsmen's Caucus: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we commend and honor Larry W. Magill, Jr. for his professional and charitable accomplishments; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to Carrie Magill, 3600 SW Randolph Square, #40, Topeka, Kansas, 66611.

On emergency motion of Senator Teichman **SR 1824** was adopted unanimously.

Senator Teichman recognized Larry W. Magill Jr., who passed away January 6, 2010. Mr. Magill served the Kansas Association of Insurance Agents in several executive roles over 25 years. His wife Carrie, Daniel Magill, Natalie Magill, Marge Haub, Tess Magill, Pam Clutter, Mike Clutter, Don Johnston, Alice Ann Johnston and Will Larson were acknowledged with a standing ovation.

REPORT ON ENGROSSED BILLS

SB 362, SB 396; Sub SB 416; SB 417, SB 430, SB 497, SB 518 reported correctly engrossed February 17, 2010.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 445** be passed.

Committee on **Education** recommends **SB 485** be amended on page 2, in line 37, by striking "by solicitation within this state at any place";

On page 3, in line 21, by striking "An institution shall not be required to obtain a"; by striking all in line 22; in line 23, by striking "institution" where it appears for the last time and inserting "campus"; in line 24, by striking "institution" and inserting "campus"; in line 25, by striking "institution" and inserting "campus";

On page 4, in line 26, by striking "and"; in line 33, by striking the period and inserting "; and"; in line 34, by striking "All institutions shall" and inserting "institutions"; in line 35, by striking "The procedure shall include use of written"; by striking all in lines 36 and 37; in line 38, by striking "process was completed.";

On page 7, in line 33, by striking "site fees, for each site:" and inserting "campus site fees, for each branch campus site:."; in line 36, by striking "site fees, for each site:" and inserting "campus site fees, for each branch campus site:."; in line 39, after "On-site" by inserting "branch campus";

On page 8, in line 28, by striking "site fees, for each site:" and inserting "campus site fees, for each branch campus site:."; in line 31, by striking "site fees, for each site:" and inserting "campus site fees, for each branch campus site:."; in line 34, after "On-site" by inserting "branch campus";

On page 9, by striking all in lines 9 through 14;

And by relettering the remaining subsections accordingly; and the bill be passed as amended.

Committee on **Ethics and Elections** recommends **SB 419** be amended on page 1, in line 32, by striking all before the colon; by striking all in lines 33 through 35 and inserting the following:

"(1) The city clerk; or

(2) the county election officer of the county in which the person resides.";

On page 2, in line 9, by striking "three" and inserting "two"; in line 42, by striking "the county election officer of"; by striking all in lines 43;

On page 3, by striking all in lines 1 and 2 and inserting the following:

"(1) The city clerk; or

(2) the county election officer of the county in which the person resides.";

Also on page 3, in line 21, by striking "three" and inserting "two"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 301** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 301," as follows:

"Substitute for SENATE BILL No. 301

By Committee on Federal and State Affairs

"AN ACT concerning land surveys; relating to monumentation of corners and recording of surveys; amending K.S.A. 58-2001 and 58-2005 and repealing the existing sections."; and the substitute bill be passed.

Also, **SB 514** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 514,” as follows:

“Substitute for SENATE BILL No. 514

By Committee on Federal and State Affairs

“AN ACT concerning alcoholic beverages; relating to eligibility for license for club and drinking establishments; amending K.S.A. 2009 Supp. 41-2623 and repealing the existing section.”;

and the substitute bill be passed.

SB 531 be amended on page 1, in line 30, after “soil” where it appears for the first time, by inserting “, water”; in line 31, by striking “cause” and inserting “source”; after line 37, by inserting:

“(h) “Radon measurement laboratory” means a business that performs laboratory analysis of radon measurement devices or samples, but does not include the field analysis of continuous radon monitors or continuous working level monitors.

(i) “Department” means the department of health and environment.”;

On page 2, by striking all in line 41; in line 42, by striking all before “such”;

On page 3, in line 13, before the semicolon, by inserting “; provided, the testing is not performed in association with or related to the transfer of real property”; in line 14, before the period, by inserting “; provided, the testing is not performed in association with or related to the transfer of real property”; in line 25, by striking “within”; by striking all in line 26; in line 27, by striking all before “such”;

On page 4, in line 8, after “direct” by inserting “on-site”; in line 10, after “direct” by inserting “on-site”; in line 25, after “remuneration” by inserting “, and not performed for the purposes of transferring real property.”;

On page 5, in line 16, by striking “and” and inserting a comma; also in line 16, after “(e)” by inserting “and (g)”;

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

“(g) If no contract is entered into by a certified radon measurement business and a client, the results of the radon testing shall be reported to the department in accordance with subsection (a).”; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** 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:

Credit Union Administrator: K.S.A. 17-2233

John P. Smith, term expires December 31, 2013

State Banking Board: K.S.A. 74-3004

James Needham, term expires March 15, 2012

Committee on **Judiciary** recommends **SB 372**, **SB 533** be passed.

Also, **SB 458** be amended on page 2, in line 2, after “paragraph” by inserting “(3)”; and the bill be passed as amended.

SB 459 be amended on page 1, by striking all in lines 14 through 43;

On page 2, by striking all in lines 1 through 43;

On page 3, by striking all in lines 1 through 7;

And by renumbering remaining sections;

On page 7, in line 42, by striking “38-2344, 38-2357.”;

In the title, in line 9, by striking all after the semicolon; in line 10, by striking “38-2344, 38-2357.”; and the bill be passed as amended.

SB 460 be amended on page 5, in line 40, by striking “and article 31a of chapter 60 of the Kansas”; by striking all in line 41; in line 42, by striking “(act).”;

On page 49, by striking all in lines 14 through 29 and inserting the following:

“Sec. 22. K.S.A. 60-3107 is hereby amended to read as follows: 60-3107. (a) The court may approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children or grant any of the following orders:

(1) Restraining the defendant from abusing, molesting or interfering with the privacy or rights of the plaintiff or of any minor children of the parties. Such order shall contain a

statement that if such order is violated, such violation may constitute assault as provided in K.S.A. 21-3408, and amendments thereto, battery as provided in K.S.A. 21-3412, and amendments thereto, domestic battery as provided in K.S.A. ~~2005 Supp.~~ 21-3412a, and amendments thereto and violation of a protective order as provided in K.S.A. ~~2005 Supp.~~ 21-3843, and amendments thereto.

(2) Granting possession of the residence or household to the plaintiff to the exclusion of the defendant, and further restraining the defendant from entering or remaining upon or in such residence or household, subject to the limitation of subsection (d). Such order shall contain a statement that if such order is violated, such violation shall constitute criminal trespass as provided in subsection (c) of K.S.A. 21-3721, and amendments thereto, and violation of a protective order as provided in K.S.A. ~~2005 Supp.~~ 21-3843, and amendments thereto. The court may grant an order, which shall expire 60 days following the date of issuance, restraining the defendant from cancelling utility service to the residence or household.

(3) Requiring defendant to provide suitable, alternate housing for the plaintiff and any minor children of the parties.

(4) Awarding temporary custody and residency and establishing temporary parenting time with regard to minor children.

(5) Ordering a law enforcement officer to evict the defendant from the residence or household.

(6) Ordering support payments by a party for the support of a party's minor child, if the party is the father or mother of the child, or the plaintiff, if the plaintiff is married to the defendant. Such support orders shall remain in effect until modified or dismissed by the court or until expiration and shall be for a fixed period of time not to exceed one year. On the motion of the plaintiff, the court may extend the effect of such order for 12 months.

(7) Awarding costs and attorney fees to either party.

(8) Making provision for the possession of personal property of the parties and ordering a law enforcement officer to assist in securing possession of that property, if necessary.

(9) Requiring any person against whom an order is issued to seek counseling to aid in the cessation of abuse.

(10) Ordering or restraining any other acts deemed necessary to promote the safety of the plaintiff or of any minor children of the parties.

(b) No protection from abuse order shall be entered against the plaintiff unless:

(1) The defendant properly files a written cross or counter petition seeking such a protection order;

(2) the plaintiff had reasonable notice of the written cross or counter petition by personal service as provided in subsection (d) of K.S.A. 60-3104, and amendments thereto; and

(3) the issuing court made specific findings of abuse against both the plaintiff and the defendant and determined that both parties acted primarily as aggressors and neither party acted primarily in self-defense.

(c) Any order entered under the protection from abuse act shall not be subject to modification on ex parte application or on motion for temporary orders in any action filed pursuant to K.S.A. 60-1601 et seq., or K.S.A. 38-1101 et seq., and amendments thereto. Orders previously issued in an action filed pursuant to K.S.A. 60-1601 et seq., or K.S.A. 38-1101 et seq., and amendments thereto, shall be subject to modification under the protection from abuse act only as to those matters subject to modification by the terms of K.S.A. 60-1610 et seq., and amendments thereto, and on sworn testimony to support a showing of good cause. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause. If an action is filed pursuant to K.S.A. 60-1610 et seq., or K.S.A. 38-1101 et seq., and amendments thereto, during the pendency of a proceeding filed under the protection from abuse act or while an order issued under the protection from abuse act is in effect, the court, on final hearing or on agreement of the parties, may issue final orders authorized by K.S.A. 60-1610 and amendments thereto, that are inconsistent with orders entered under the protection from abuse act. Any inconsistent order entered pursuant to this subsection shall be specific in its terms, reference the protection from abuse order and parts thereof being modified and a copy thereof shall be filed in both actions. The court shall consider whether the actions should be consolidated in accordance with K.S.A. 60-242

and amendments thereto. *Any custody or parenting time order, or order relating to the best interests of a child, issued pursuant to the revised Kansas code for care of children or the revised Kansas juvenile justice code, shall be binding and shall take precedence over any such custody or parenting order involving the same child issued under the protection from abuse act, until jurisdiction under the revised Kansas code for care of children or the revised Kansas juvenile justice code is terminated. Any inconsistent custody or parenting order issued in the revised Kansas code for care of children case or the revised Kansas juvenile justice code case shall be specific in its terms, reference any preexisting protection from abuse order and the custody being modified, and a copy of such order shall be filed in the preexisting protection from abuse case.*

(d) If the parties to an action under the protection from abuse act are not married to each other and one party owns the residence or household, the court shall not have the authority to grant possession of the residence or household under subsection (a)(2) to the exclusion of the party who owns it.

(e) Subject to the provisions of subsections (b), (c) and (d), a protective order or approved consent agreement shall remain in effect until modified or dismissed by the court and shall be for a fixed period of time not to exceed one year, except that, on motion of the plaintiff, such period may be extended for one additional year.

(f) The court may amend its order or agreement at any time upon motion filed by either party.

(g) No order or agreement under the protection from abuse act shall in any manner affect title to any real property.

(h) If a person enters or remains on premises or property violating an order issued pursuant to subsection (a)(2), such violation shall constitute criminal trespass as provided in subsection (c) of K.S.A. 21-3721, and amendments thereto, and violation of a protective order as provided in K.S.A. ~~2005-Supp.~~ 21-3843, and amendments thereto. If a person abuses, molests or interferes with the privacy or rights of another violating an order issued pursuant to subsection (a)(1), such violation may constitute assault as provided in K.S.A. 21-3408, and amendments thereto, battery as provided in K.S.A. 21-3412, and amendments thereto, domestic battery as provided in K.S.A. ~~2005-Supp.~~ 21-3412a, and amendments thereto, and violation of a protective order as provided in K.S.A. ~~2005-Supp.~~ 21-3843, and amendments thereto.”;

Also on page 49, in line 30, by striking “60-3103” and inserting “60-3107”;

In the title, in line 10, by striking “60-3103” and inserting “60-3107”; and the bill be passed as amended.

SB 468 be amended on page 1, in line 23, after “petition” by inserting “the chief judge or the chief judge’s designee in”; in line 26, by striking “or 4” and inserting “, 4 or 5”; in line 27, by striking “judge or judges of” and inserting “chief judge or the chief judge’s designee in”; in line 28, after the second comma by inserting “as set forth in this subsection.”; in line 32, by striking “10%” and inserting “5%”; and the bill be passed as amended.

SB 488 be amended on page 1, in line 24, by striking “The selected applicant for a position” and inserting “Any person offered a position of employment”; also in line 24, after “statistics” by inserting “, subject to a criminal history records check.”; in line 26, by striking “candidate” and inserting “applicant”; and the bill be passed as amended.

SB 519 be amended on page 10, in line 12, by striking “via telephone lines”; and the bill be passed as amended.

SB 537 be amended on page 1, in line 17, after “prove” by inserting “by a preponderance of the evidence”; in line 38, after “(g)” by inserting “(1)”; after line 41, by inserting the following:

“(2) A contempt action under this section may be brought by any person aggrieved by a violation of any order set forth in subsection (e) regardless of whether such person was a party to the original civil action brought pursuant to this section.”; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 475** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 475,” as follows:

“Substitute for SENATE BILL No. 475

By Committee on Public Health and Welfare

“AN ACT concerning funeral directors; amending K.S.A. 65-1714 and K.S.A. 2009 Supp. 65-1713 and repealing the existing sections.”;

and the substitute bill be passed.

Also, **SCR 1626** be reported without recommendation.

SB 448 be amended on page 1, following line 13, by inserting the following:

“Section 1. K.S.A. 65-177 is hereby amended to read as follows: 65-177. The term “data” as used in this act shall be construed to include all facts, information, records of interviews, written reports, statements, notes, or memoranda secured in connection with an authorized medical research study.

The secretary of health and environment may receive data secured in connection with medical research studies conducted for the purpose of reducing morbidity or mortality from maternal, perinatal and anesthetic causes. Such studies may be conducted by the secretary of health and environment and his staff or with other qualified persons, agencies or organizations. Where authorization to conduct such a study is granted by the secretary of health and environment, all data voluntarily made available to the secretary of health and environment in connection with such study shall be treated as confidential and shall be used solely for purposes of medical research. Research files and opinions expressed upon the evidence found in such research shall not be admissible as evidence in any action in any court or before any other tribunal: *Provided, however*, That any statistics or tables resulting from such data shall be admissible as evidence: *Provided*, That this act shall not affect the right of any patient or his guardians, representatives or heirs to require hospitals, physicians, sanatoriums, rest homes, nursing homes or other persons or agencies to furnish his hospital record to his representatives upon written authorization, or the admissibility in evidence thereof.

No employee of the secretary of health and environment shall interview any patient named in any such report, nor any relative of any such patient, *unless otherwise provided in K.S.A. 65-2422d, and amendments thereto: Provided*, That nothing in this act shall prohibit the publication by the secretary of health and environment or a duly authorized cooperating person, agency or organization, of final reports or statistical compilations derived from morbidity or mortality studies, which reports or compilations do not identify individuals, associations, corporations or institutions which were the subjects of such studies, or reveal sources of information.”;

And by renumbering the remaining sections accordingly;

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

On page 2, in line 18, preceding “consent”, by inserting “or informed”;

On page 3, in line 18, preceding “K.S.A.”, by inserting “K.S.A. 65-177 and”; also in line 18, by striking “is” and inserting “are”;

On page 1, in the title, in line 10, preceding “K.S.A.” by inserting “K.S.A. 65-177 and”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

SB 500 be amended on page 1, in line 32, before “such” by inserting “the use of”; in line 33, by striking “are not used with the intent of representing or” and inserting “is not”; and the bill be passed as amended.

SB 508 be amended on page 2, in line 17, by striking “trustee and account number of the surety account.”;

On page 3, in line 8, by striking “(8)” and inserting “(c)”; in line 17, by striking “The supplier” and inserting “(1) The supplier who sells any discount card”; following line 20, by inserting the following:

“(2) Any supplier who markets, promotes, advertises or otherwise distributes any discount card in Kansas shall designate a resident agent who is a resident of Kansas for service of process and such resident agent shall register with the secretary of state pursuant to K.S.A. 60-306, and amendments thereto, on forms that are prescribed by the secretary of state.”;

And the bill be passed as amended.

Committee on **Transportation** recommends **SB 462** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 462,” as follows:

“Substitute for SENATE BILL No. 462

By Committee on Transportation

“AN ACT regulating traffic; concerning liability for damage to highway or structure; amending K.S.A. 8-1913 and repealing the existing section.”;

and the substitute bill be passed.

Also, **SB 484** be amended on page 1, following line 13, by inserting the following:

“Section 1. K.S.A. 2009 Supp. 8-234a is hereby amended to read as follows: 8-234a. (a) As used in the motor vehicle drivers’ license act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(1) “Drivers’ license examiner” or “examiner” means a drivers’ license examiner of the division of vehicles or any person whom the director of vehicles has authorized, pursuant to the authority granted by this act, to accept applications for drivers’ licenses and administer the examinations required for the issuance or renewal of drivers’ licenses. Any county treasurer authorized to accept applications for drivers’ licenses or administer drivers’ license examinations shall be deemed to be acting as an agent of the state of Kansas;

(2) “nonresident” means every person who is not a resident of this state. For the purposes of the motor vehicle drivers’ license act any person who owns, rents or leases real estate in Kansas as such person’s residence and engages in a trade, business or profession within Kansas or registers to vote in Kansas or enrolls such person’s children in a school in this state or purchases Kansas registration for a motor vehicle, shall be deemed a resident of the state of Kansas 90 days after the conditions stated in this subsection commence, except that military personnel on active duty and their military dependents who are residents of another state, shall not be considered residents of the state of Kansas for the purpose of this act;

(3) “patrol” means the state highway patrol;

(4) “address of principal residence” means: (A) The place where a person makes his or her permanent principal home; (B) place where a person resides, has an intention to remain and where they intend to return following an absence; or (C) place of habitation to which, whenever the person is absent, the person intends to return. If a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person’s address of principal residence;

(5) “state” means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of Northern Mariana Islands; ~~and~~

(6) “wireless communication device” means any wireless electronic communication device that provides for voice or data communication between two or more parties, including, but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages, an audio-video player that sends or receives messages or a laptop computer; *and*

(7) “religious organization” means any organization, church, body of communicants, or group, gathered in common membership for mutual support and edification in piety, worship and religious observances, or a society of individuals united for religious purposes at a definite place and which religious organization maintains an established place of worship within this state and has a regular schedule of services or meetings at least on a weekly basis and has been determined to be organized and created as a bona fide religious organization.

(b) As used in this act, the words and phrases defined by the sections in article 14 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall have the meanings respectively ascribed to them therein, unless a different meaning is ascribed to any such word or phrase by subsection (a) of this section.”;

And by renumbering remaining sections accordingly;

Also on page 1, in line 14, by striking “Section” and inserting “Sec.”; in line 28, following the semicolon, by inserting “or”; by striking all in lines 29 and 30; in line 31, by striking “(D)” and inserting “(C)”; in line 42, following “function”, by inserting “held by a religious organization”;

On page 5, by striking all in line 18; in line 19, by striking “(D)” and inserting “(C)”; in line 23, by striking “(E)” and inserting “(D)”; in line 35, following “function”, by inserting “held by a religious organization”;

On page 6, in line 25, following “function”, by inserting “held by a religious organization”;

On page 8, in line 11, following "Supp.", by inserting "8-234a,";
 In the title, in line 10, following "Supp.", by inserting "8-234a,"; 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 Taddiken in the chair.

On motion of Senator Taddiken the following report was adopted:

Recommended **SB 345, SB 355, SB 409, SB 423, SB 512** be passed.

A motion to amend **SB 423** by Senator Kelly on page 7, in line 21, before "its" by inserting "January 1, 2011, and", failed.

SB 370, SB 381, SB 386, SB 389, SB 461, SB 471, SB 482 be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee report on **HB 2476** recommending a **S Sub for HB 2476** be adopted, and the substitute bill be passed.

SB 427 be amended by motion of Senator Kultula on page 6, following line 10, by inserting the following:

"New Sec. 5. (a) As used in this section:

(1) "Taxing subdivision" means any county, city, township, taxing district, political subdivision or any other state or local governmental entity that is authorized to levy taxes on real property.

(2) "Tax receivable" means the right to receive revenue from a tax, assessment, or other charge on real property that has become delinquent in whole or in part, including all penalties and interest on such taxes, assessments or other charges accrued pursuant to law.

(3) "Tax sale" means a sale conducted pursuant to the provisions of K.S.A. 79-2804, and amendments thereto.

(b) Any taxing subdivision by resolution of its governing body may elect to sell its tax receivables to public or private parties. The county treasurer must certify to the governing body the treasurer's consent to administer the program, except that upon a two-thirds vote of the governing body of the taxing subdivision, this certification shall not be necessary. All interest and penalties imposed by law shall continue to accrue on the unpaid original amount of the tax in the same manner as if such tax receivables had not been sold. Sales of tax receivables may be by individual parcel or in bulk. The taxing subdivision may establish such criteria for eligible purchasers of tax receivables and may make such sales pursuant to negotiated sale for such prices as the taxing subdivision determines to be in the best interest of the taxing subdivision.

(c) A taxing subdivision may enter into purchase and sale agreements for the sale of tax receivables, which purchase and sale agreements may, consistent with the provisions of this section, contain such terms, covenants, representations and warranties as, in the judgment of the taxing subdivision, shall be necessary or desirable. The agreement may require the taxing subdivision to repurchase a tax receivable, or to substitute another tax receivable of equivalent value, for prices and under conditions specified in the agreement. Upon the execution of a purchase and sale agreement for the sale of tax receivables by the appropriate officer of the taxing subdivision, a taxing subdivision may enter into an agreement with the county treasurer to act as the taxing subdivision's agent in connection with the administration of such purchase and sale agreements and of the related tax receivables.

(d) The order of priority of the application of tax receivables with respect to a particular property shall not be changed by reason of the sale of all or a portion of such tax receivables. All amounts collected on account of the tax receivables shall be promptly paid by the taxing subdivision to the holder of the tax receivable, except that the taxing subdivision shall have the right to retain all amounts that are charged and collected as trustee's fees, attorney's fees and costs of collection or that are otherwise collected in excess of the amount due on the tax receivables sold.

(e) Unless provided otherwise in the purchase and sale agreement with respect to tax receivables sold:

(1) The amount bid in a tax sale on behalf of governmental entities for which the taxes are owing shall include the amount of all tax receivables sold, including the costs incident to the collection thereof;

(2) In the event that the tax receivable is not redeemed by the end of the redemption period prescribed by K.S.A. 79-2401a, and amendments thereto, and is acquired by a governmental entity in a tax sale, then the governmental entity shall promptly offer the property for sale to private purchasers by appropriate means and shall make diligent efforts to sell the same at its reasonable market value, unless the governmental entity pays to the purchasers of the tax receivables the full amount of the tax receivables then due and unpaid;

(3) After a tax sale to a governmental entity, penalties and interest pursuant to K.S.A. 79-2968, and amendments thereto, shall continue to accrue on any tax receivables sold until paid in full, except that under no circumstances shall the cost of redemption be greater than if the receivable had not been sold; and

(4) No governmental entity shall have the power to discharge, reduce, delay or otherwise compromise the payment of any tax receivables that have been sold unless the governmental entity pays to the purchasers of the tax receivables the amount of the tax receivable payments that have been reduced, delayed or otherwise compromised.

(f) Tax receivables and the penalties and interest accrued thereon shall be exempt from taxation by any governmental entity. The real property affected by any tax receivable shall not be exempt from taxation by reason of this section.

(g) It shall be the duty of the treasurer and all other state, county and municipal officers to continue to enforce the collection of tax receivables that have been sold pursuant to this section in the same manner as if such tax receivables had not been sold. Nothing in this subsection shall be construed to require of the treasurer or its employees, agents or attorneys a standard of performance of their statutory or contractual duties in the collection of a tax receivable that is different from the standard of performance otherwise required of those persons.”;

And by renumbering remaining sections accordingly;

On page 1, in line 10, following the semicolon, by inserting “delinquent property taxes, sale of tax receivables;” and **SB 427** be passed as amended.

SB 390 be amended by adoption of the committee amendments, be further amended by motion of Senator Wagle on page 1, after line 14, by inserting the following:

“New Section 1. (a) Any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization, municipal group-funded pool and the state employee health care benefits plan which provides coverage for prescription drugs and which is delivered, issued for delivery, amended or renewed on and after July 1, 2011, shall provide coverage for a prescribed, orally administered anticancer medication used to kill or slow the growth of cancerous cells on a basis no less favorable than intravenously administered or injected cancer medications that are covered as medical benefits.

(b) Any policy, provision, contract, plan or agreement under this section may apply the same deductibles, coinsurance and other limitations as apply to other covered services.

(c) (1) From and after the effective date of this act, the provisions of this section shall apply to the state employees health care benefits program.

(2) Pursuant to the provisions of K.S.A. 40-2249a, and amendments thereto, on or before March 1, 2011, the state health care benefits commission shall submit to the president of the senate and to the speaker of the house of representatives, a report indicating the impact the provisions of this section has had on the state health care benefits program, including data on the utilization and costs of such coverage. Such report shall also include a recommendation whether such coverage should continue for the state health care benefits program or whether additional utilization and cost data is required.

Sec. 2. K.S.A. 2009 Supp. 40-2,103 is hereby amended to read as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170, inclusive, 40-2250, K.S.A. 2009 Supp. 40-2,105a ~~and~~, 40-2,105b *and section 1*, and amendments thereto, shall apply to all insurance policies, subscriber contracts or certificates of insurance delivered, renewed or issued for delivery within

or outside of this state or used within this state by or for an individual who resides or is employed in this state.

Sec. 3. K.S.A. 2009 Supp. 40-19c09 is hereby amended to read as follows: 40-19c09. (a) Corporations organized under the nonprofit medical and hospital service corporation act shall be subject to the provisions of the Kansas general corporation code, articles 60 to 74, inclusive, of chapter 17 of the Kansas Statutes Annotated, applicable to nonprofit corporations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2009 Supp. 40-2,105a ~~and~~ 40-2,105b *and section 1*, and amendments thereto, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

(b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

(c) Violation of subsection (b) shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.”;

And by renumbering the remaining sections accordingly;

On page 3, in line 9, by striking “is” and inserting “and K.S.A. 2009 Supp. 40-2,103 and 40-19c09 are”;

In the title, in line 11, after the semicolon by inserting “providing reimbursement for orally administered anticancer medications;”; also in line 11, after “and” where it appears the second time, by inserting “K.S.A. 2009 Supp. 40-2,103 and 40-19c09 and”; in line 12, by striking “section” and inserting “sections” and the bill be passed as amended.

SB 346; Sub SB 374 be passed over and retain a place on the calendar.

REFERRED TO COMMITTEE

The Vice President withdrew **Sub SB 374** from the Calendar under the heading of General Orders and referred the bill to the Committee on **Ways and Means**.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Thursday, February 18, 2010.

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

