

Journal of the Senate

FIFTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 23, 2010—2:00 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,
We never know when humor
May brighten up the day,
But I found out it could show up
In an unexpected way.

When I was in the Navy
A shipmate was not around,
They had searched the ship,
But he was nowhere to be found.

I peeked through his locker vents
To see what I could see;
Lo and behold two blue eyes
Were looking back at me.

I told a sailor to break the lock,
Not knowing what to expect.
Afraid I'd see a corpse
Falling upon the deck.

The locker door blew open,
But no corpse fell on the floor,
But inside was a mirror
hanging on the door.

In a way we are a family
We often disagree,
But help us, Lord, to keep it light.
And produce some harmony.

Trusting in Your sense of humor, Lord,
I pray in the Name of Your Son, Jesus Christ,

AMEN

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 584. An act concerning property taxation; imposing a payment in lieu of tax on certain qualifying crude oil pipelines; procedure, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Ways and Means: **SB 582, SB 583; HB 2107, HB 2671.**

CHANGE OF REFERENCE

The Vice President withdrew **Sub HB 2340** from the Committee on **Judiciary**, and rereferred the bill to the Committee on **Education**.

MESSAGE FROM THE HOUSE

The House announces the appointment of Representative Schroeder to replace Representative Fund as a conferee on **HB 2566**.

The House announces the appointment of Representative Schroeder to replace Representative Fund as a conferee on **H Sub for SB 316**.

The House adopts the conference committee report on **S Sub for HB 2476**.

Announcing passage of **HB 2166; Substitute HB 2428; HB 2620, HB 2666; Substitute HB 2669**.

Announcing passage of **SB 372, SB 533**.

Also, passage of **Substitute SB 67, as amended; SB 83, as amended by House Substitute for SB 83, SB 146, as amended by House Substitute for SB 146; SB 293, as amended by House Substitute for SB 293; SB 300, as amended by House Substitute for SB 300; SB 313, as amended by House Substitute for SB 313; SB 346, as amended; SB 368, as amended; SB 382, as amended; SB 410, as amended; SB 449, as amended by House Substitute for SB 449; SB 460, as amended**.

The House concurs in Senate amendments to **HB 2566** and requests the Senate to return the bill.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2166; Substitute HB 2428; HB 2620, HB 2666; Substitute HB 2669 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Teichman moved the Senate concur in house amendments to **SB 415**.

SB 415, An act concerning certain municipalities; pertaining to investment in certain bonds; pertaining to investment of certain bond income; amending K.S.A. 10-131 and K.S.A. 2009 Supp. 10-1009 and 12-1675 and repealing the existing sections.

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 Senate concurred.

Senator McGinn moved the Senate concur in house amendments to **SB 497**.

SB 497, An act concerning crimes and punishments; relating to the criminal use of weapons; amending K.S.A. 2009 Supp. 21-4201 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 Senate concurred.

On motion of Senator Brungardt the Senate nonconcurred in the House amendments to **H Sub for SB 213** and requested a conference committee be appointed.

The Vice President appointed Senators Brungardt, Reitz and Faust-Goudeau as a conference committee on the part of the Senate.

On motion of Senator Brungardt the Senate nonconcurred in the House amendments to **H Sub for SB 262** and requested a conference committee be appointed.

The Vice President appointed Senators Brungardt, Reitz and Faust-Goudeau as a conference committee on the part of the Senate.

On motion of Senator Emler the Senate nonconcurred in the House amendments to **SB 387** and requested a conference committee be appointed.

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

REMOVE FROM CONSENT CALENDAR

An objection having been made to **HB 2473** appearing on the Consent Calendar, the Vice President directed the bill be removed and placed on the calendar under the heading of General Orders.

FINAL ACTION ON CONSENT CALENDAR

HB 2661, HB 2698 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

HB 2661, An act concerning crimes, criminal procedure and punishments; concerning drug crimes; amending K.S.A. 2009 Supp. 12-4104, 21-36a05, 21-36a06, 21-36a08, 21-36a10, 21-4203, 21-4204, 21-4226, 21-4704, 22-3901, 22-4902, 59-2132, 65-516, 72-1397, 72-5445, 75-7c04 and 76-11a13 and repealing the existing sections.

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.

HB 2698, An act authorizing the secretary of state to grant an easement to the city of Ogden in Riley county, Kansas.

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.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 520, An act concerning criminal procedure; relating to employment of county and city prisoners; amending K.S.A. 22-4603 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Brownlee, Bruce, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Masterson, McGinn, Morris, Owens, Petersen, Pilcher-Cook, Schmidt V, Schodorf, Steineger, Umbarger, Wagle.

Nays: Apple, Barnett, Brungardt, Colyer, Donovan, Emler, Huelskamp, Huntington, Marshall, Ostmeyer, Pyle, Reitz, Schmidt D, Taddiken, Teichman, Vratil.

The bill passed, as amended.

SB 561, An act concerning municipalities; amending K.S.A. 19-26,103 and 19-26,104 and K.S.A. 2009 Supp. 12-1750, 12-1756a and 12-1756g and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 27, Nays 13, Present and Passing 0, Absent or Not Voting 0.

Yeas: Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huntington, Kelly, Kelsey, Kultala, Lee, Marshall, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle.

Nays: Abrams, Apple, Barnett, Brownlee, Colyer, Haley, Huelskamp, Lynn, Masterson, Ostmeyer, Pilcher-Cook, Pyle, Vratil.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote "No" on **SB 561**. Four years ago this week, this very chamber endorsed **SB 323** (relating to restriction of government authority to take property). Twenty seven Senators affirmed limiting the use of Eminent Domain that year but, not giving up, today that minority (then) of the Senate is back with this **Bill, 561**, or "Eminent Domain light" . . . a more subtle, creeping, erosion on the rights of real property owners. Then, two quotes were "Eminent Domain, a once useful tool utilized by local governments to expand public use for infrastructure improvement and enhancement of general well being, has become a significant problem to the basic right of an American to purchase and retain, unfettered, real property." Another Senator had this to say: "Those entities who wish to profit by misusing the coercive power of government should instead choose the American way and obtain the property they desire at their own risk and expense." While the cat's away . . . here they go again. The Senate should take the lead in ensuring that government will not take private property to give to developers for private use. — DAVID HALEY

SB 570, An act concerning lodging inspections; relating to lodging inspection fees; amending K.S.A. 2009 Supp. 36-502, 36-518 and 74-591 and repealing the existing sections; also repealing K.S.A. 2009 Supp. 36-512, was considered on final action.

On roll call, the vote was: Yeas 26, Nays 14, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Lee, McGinn, Morris, Ostmeyer, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Abrams, Barnett, Brownlee, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Marshall, Masterson, Petersen, Pilcher-Cook, Pyle, Steineger.

The bill passed, as amended.

SB 571, An act concerning the animal health department; relating to fees; amending K.S.A. 47-1001e and K.S.A. 2009 Supp. 47-1011, 47-1503 and 47-2101 and repealing the existing sections, was considered on final action.

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

Yeas: Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Lee, Lynn, Masterson, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Abrams, Barnett, Brownlee, Colyer, Huelskamp, Kelsey, Marshall, Ostmeyer, Pilcher-Cook, Pyle.

The bill passed, as amended.

SB 574, An act concerning the interstate water litigation fund; amending K.S.A. 82a-1802 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 1, 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, Wagle.

Nays: Vratil.

The bill passed, as amended.

SB 581, An act transferring the charge, care, management and control of the Hiram Price Dillon House to the Kansas arts commission; prescribing certain powers, duties and functions for the commission; amending K.S.A. 75-3682 and K.S.A. 2009 Supp. 41-719 and 75-3683 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Brownlee, Masterson, Pilcher-Cook.

The bill passed.

SR 1809, A resolution opposing the United States Environmental Protection Agency's greenhouse gas regulation by rulemaking, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 3, Present and Passing 3, Absent or Not Voting 0.

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

Nays: Hensley, Holland, Kultala.

Present and Passing: Francisco, Kelly, Steineger.

The resolution was adopted, as amended.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote "PASS" on **Senate Resolution 1809** opposing the United States Environmental Protection Agency's greenhouse gas regulation by rulemaking. In 2003, the EPA made two determinations: 1) the EPA lacked authority under the Clean Air Act to regulate carbon dioxide and other greenhouse gases and 2) even if they did have such authority, it would decline to exercise it. In *Massachusetts vs. EPA* twelve states and several cities brought suit. The Supreme Court ruled in favor of the states, and commented that "greenhouse gases fit well within the Clean Air Act's capacious definition of air pollutant." I believe that the EPA's endangerment finding, rather than circumventing the required separation of powers, is in response to the checks and balances our democracy relies upon. Our Kansas economy is very dependent upon the health of our citizens. Near term benefits for certain crops because of climate change may be outweighed by the threats of long-term adverse impacts of extreme weather events and shifts of invasive species. I would support a resolution urging the EPA to consider economic impacts in a way that balances the concerns of all Kansas citizens and addresses the Environmental Protection Agency with respect. — MARCI FRANCISCO

MR. VICE PRESIDENT: I introduced **Senate Resolution 1809** in response to the radical decision by the EPA to begin regulation of greenhouse gases (GHG), a dangerous threat to the Kansas economy, particularly our agriculture, oil and gas, construction and manufacturing industries.

It is clear to me that the EPA and the Obama Administration are attempting to foist a massive new regulatory scheme upon America via bureaucratic fiat. Taking such a route not only bypasses the normal avenue of input from American people, it also circumvents the federal legislative process. And the reason is simple - because Congress and the American people refuse to support and pass their radical cap-and-trade bills.

Additionally, I have also recently learned that our Attorney General, Governor, and Department of Health and Environment have refused to take a position on this devastating proposal.

In their leadership absence, this Resolution sends a strong message to the EPA, to the Obama Administration, and our Executive officers in Kansas — we do not support their unilateral decision to regulate GHG based on a faulty interpretation of a decades-old law. Instead, we look for a public debate based on common sense, sound science, and constitutional restraint. — TIM HUELSKAMP

S Sub for HB 2039, An act concerning small claims; amending K.S.A. 61-2714 and K.S.A. 2009 Supp. 61-2704 and 61-2707 and repealing the existing sections, was considered on final action.

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

Yeas: 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 substitute bill passed.

Sub HB 2517, An act concerning crimes, punishment and criminal procedure; relating to domestic violence; amending K.S.A. 20-369, 22-2307 and 22-2908 and K.S.A. 2009 Supp. 21-3110, 21-3412a, 21-4603d, 22-2909 and 75-712 and repealing the existing sections, was considered on final action.

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

Yeas: 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 substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote yes for **Sub HB 2517** and I would like to explain why.... During my first term in the Kansas Legislature, beginning mid-term 2003, I attempted to introduce legislation that would strengthen our domestic violence laws. However, after asking a fellow legislator, who is an attorney, to look at the legislation I was considering, I quickly gave up the idea after his response.... when he said to me... “Oletha, this will never pass and why waste your time with this issue because the women who are abused generally go back to the men who have abused them, anyway”.

Mr. Vice President, I am saddened to say that I didn’t continue the advocacy for the prevention of domestic violence perhaps it may have helped prevent the death of Jana Mackay and others affected by domestic violence. For this reason, I vote ‘Yea’ for **Sub HB 2517**.... This is a great victory for the state of Kansas! — OLETHA FAUST-GOUDEAU

Senator Francisco requests the record to show she concurs with the “Explanation of Vote” offered by Senator Faust-Goudeau on **HB 2517**.

HB 2678, An act designating part of United States highway 59 as the Vern Chesbro memorial highway, was considered on final action.

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

Yeas: 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

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

SENATE RESOLUTION No. 1849—

A RESOLUTION congratulating the A.Q. Miller School of Journalism and Mass Communications at Kansas State University for celebrating its centennial anniversary.

WHEREAS, The year 2010 marks the 100th anniversary of journalism and mass communications at Kansas State University; and

WHEREAS, Graduates of journalism and mass communications at Kansas State University have been extremely successful. They can be found in the White House, and in the United States Congress and in statehouses, newspaper offices, broadcast stations, public relations and advertising agencies, educational institutions and other organizations across the nation and around the world; and

WHEREAS, These KSU graduates are serving their communities, state, nation and world with the utmost professionalism and dedication; and

WHEREAS, The A.Q. Miller School of Journalism and Mass Communications exemplifies the excellence of education at Kansas State University: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate Kansas State University's A.Q. Miller School of Journalism and Mass Communications on its 100th anniversary; and

Be it further resolved: That the Secretary of the Senate be directed to send enrolled copies of this resolution to the director of the A. Q. Miller School of Journalism and Mass Communications, Angela Powers; the interim dean and University Distinguished Professor of the College of Arts and Sciences, Brian S. Spooner; and University President Kirk Schulz, all in care of Kansas State University, Manhattan, Kansas 66506.

On emergency motion of Senator Reitz **SR 1849** was adopted unanimously.

Senator Reitz introduced Dr. Gloria Freeland and Dr. Steven Smethers, professors at Kansas State University School of Journalism, in recognition of the 100th anniversary of the A.Q. Miller School of Journalism and Mass Communications at Kansas State University.

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

SENATE RESOLUTION No. 1850—

A RESOLUTION recognizing and congratulating the Quinter High School Coaches and Football Team for winning the 2009 8-Man Division I State Football Championship.

WHEREAS, The Quinter High School Football Team won the 2009 8-Man Division I State Football Championship; and

WHEREAS, The Quinter High School Bulldogs won the title by first defeating last year's state runner-up and this year's No. 2 seed, Clifton-Clyde, which was undefeated prior to the sub-state game, by the score of 28 — 20, and by then defeating last year's champion and this year's No. 1 seed, Baileyville-B&B, which had a 25 game winning streak prior to the championship game, by the score of 28 — 26; and

WHEREAS, The 2009 Quinter High School football team started the season with Head Coach Greg Woolf and Assistant Coaches Brian Roesch and Jeff Ruckman and after the Week 2 victory over Palco, Coach Woolf announced that he had been diagnosed with cancer and would miss parts of the season for treatment; and

WHEREAS, Coach Woolf turned the team over to Coaches Brian Roesch, as Head Coach and Offensive Coordinator, and Coach Jeff Ruckman, as Defensive Coordinator, for the rest of the season, with Coach Woolf staying involved as an inspirational leader for the team; and

WHEREAS, Coach Brian Roesch was named the Hays Daily News' Coach of the Year on the 26th annual All-Area football team; and

WHEREAS, The team members are seniors Brady Reed (QB/DB), Matt Bird (TE/DB), Jordon Hargitt (RB/LB), Skyler Wittman (TE/DB), Jeremy Amon (G/DL), Thatcher Deaton (G/LB), Zach Nemechek (C/NG), Cody Corwin (C/NG), Scott Ochs (G/DE); juniors Joe Simon (QB/DB), Justin Roesch (FB/LB), Ben Eilert (FB/DL), Sam Leighton (G/DL), Toby Hawbaker (TE/DB); sophomores Logan Reed (FB/LB), Toby Waggoner (TE/LB), Aaron Teeter (C/DL), Brian Ochs (G/DE), Jesse Ochs (TE/LB); and freshmen Zach Bishop (TE/DB), Chance Smith (TE/DB), Alex Albin (RB/LB), Brandon Kerns (G/DL), Austin Heier (G/DE), Braden Evans (G/DE), Dustin Zahn (G/DL), and David Fleener (TE/DB); and

WHEREAS, The Quinter High School Football Team, led by their close-knit senior class, the strong and inspirational coaching, and the enthusiastic support of the other students, their families and the people of the Quinter community area, kept their faith and confidence and dedicated themselves to attain their 8—1 pre-tourney record and to go on to cap a stellar 2009 season with a final 12—1 record and the state crown: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize and congratulate the Quinter High School Coaches and Football Team for winning their impressive and inspirational 2009 season and for winning the 2009 8-Man Division I State Football Championship; and

Be it further resolved: That the Secretary of the Senate provide one enrolled copy of this resolution to Senator Ostmeyer.

On emergency motion of Senator Ostmeyer **SR 1850** was adopted unanimously.

Senator Ostmeyer recognized and congratulated the Quinter High School Football Team for winning the 2009 8-Man Division I State Football Championship. The following team members and coaches were in attendance: Brian Roesch, Coach, Jeff Ruckman, Coach, Brady Reed, Matt Bird, Jordon Hargitt, Jeremy Amon, Thatcher Deaton, Skyler Wittman, Zach Nemechek, Cody Corwin, Scott Ochs, Joe Simon, Justin Roesch, Ben Eilert, Sam Leighton, Toby Hawbaker, Logan Reed, Toby Wagoner, Aaron Teeter, Brian Ochs, Jesse Ochs, Zach Bishop, Chance Smith, Alex Albin, Brandon Kerns, Austin Heier, Braden Evans, Dustin Zahn and David Fleener.

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

SENATE RESOLUTION No. 1851—

A RESOLUTION congratulating and commending the Residential Construction Management Team from McPherson High School for being named National Champion at the NAHB Residential Construction Management Competition.

WHEREAS, The National Association of Home Builders (NAHB) held their annual Residential Construction Management Competition in Las Vegas in January during the International Builders Show. The competition gives students the opportunity to demonstrate their ability to solve construction-related problems by working on real-life construction projects; and

WHEREAS, The Residential Construction Management Team from McPherson High School was named National Champion in the 2010 competition. In 2009 the team placed second, and in 2008 they placed fourth. In addition to the team win, Preston Mossman was given the Outstanding Student award that is sponsored by BuilderBooks.com; and

WHEREAS, The competition begins when teams download a floor plan for a custom-built home. Based on the floor plan, the teams had to develop detailed construction drawings, a complete list of materials and costs, and a construction schedule, while meeting the “Bronze Level” building standards for green or energy efficient construction; and

WHEREAS, The team members include Max Archer, Preston Mossman, Joel Piper, Adam Porter and Jacob Reese. The team coaches are Arlan Penner and Don Willits. The team was sponsored by the McPherson Area Contractors Association as well as many others in the McPherson area: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the Residential Construction Management Team from McPherson High School for winning the 2010 NAHB Residential Construction Management Competition. We commend the team for their hard work and dedication to excellence and for being outstanding role models to their peers. We extend our best wishes for their continued success and happiness; and

Be it further resolved: That the Secretary of the Senate be directed to send seven enrolled copies of this resolution to the McPherson Residential Construction Management Team, one for each student and coach.

On emergency motion of Senator Emler **SR 1851** was adopted unanimously.

Senator Emler congratulated and commended the Residential Construction Management Team from McPherson High School for being named National Champions at the NAHB Residential Construction Management Competition. Introduced were the following members of the Construction Management Team: Max Archer, Preston Mossman, Joel Piper,

Adam Porter, Jacob Reese, Coach Arlan Penner and Coach Don Willits. The students were congratulated on their achievements.

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

SENATE RESOLUTION No. 1852—

A RESOLUTION endorsing the Kansas Diabetes Plan and declaring March 23, 2010 as American Diabetes Association Alert Day.

WHEREAS, The State of Kansas recognizes that healthy citizens are essential for strong communities to thrive; and

WHEREAS, Diabetes is a major public health problem with increasing prevalence, poor outcomes and high costs; and

WHEREAS, More than 150,000 Kansans have been diagnosed with diabetes and over 94% of those have Type 2 diabetes, which can be delayed; and

WHEREAS, Early detection and disease management can help prevent complications of diabetes, including cardiovascular disease, blindness, nervous system damage and kidney failure; and

WHEREAS, More than 40 Kansas entities with emphasis on community health have come together to form the Kansas Diabetes Action Council to develop and implement a Kansas Diabetes Plan to reduce the negative clinical and economic impact on individuals and on the state of Kansas; and

WHEREAS, The goals of the Kansas Diabetes Plan are to increase awareness of the prevention and control of diabetes, improve the capacity to address the prevention and control of diabetes, increase Kansas' health care workforce competency in diabetes standards of care, improve awareness of and access to diabetes self-management information, programs and services, and influence public policy to support improving diabetes prevention, detection and care throughout Kansas; and

WHEREAS, The Kansas Diabetes Plan promotes community actions that make the healthy choice the right choice: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we hereby endorse the Kansas Diabetes Plan, recognize that March 23, 2010 is American Diabetes Association Alert Day in the State of Kansas, and we direct the Kansas Diabetes Action Council to submit a report to the state legislature in 2011 on the continued progression of the Kansas Diabetes Plan; and

Be it further resolved: That the Secretary of the Senate be directed to send seven enrolled copies of this resolution to Senator Lee.

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

Senator Lee introduced Mark Stubbs, Executive Director of the American Diabetes Association and Dr. Jeremiah Nelson in endorsing the Kansas Diabetes Plan and declaring March 23, 2010 as American Diabetes Association Alert Day.

Senator Faust-Goudeau introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1853—

A RESOLUTION designating May as Lupus Awareness Month.

WHEREAS, Every year, the Lupus Foundation of America designates May as National Lupus Awareness Month to show support for the estimated 1.5 million Americans who have lupus; and

WHEREAS, Lupus is an acute and chronic autoimmune disease in which the immune system is unbalanced, causing inflammation and tissue damage to virtually every organ system in the body; and

WHEREAS, Lupus can affect any part of the body, including the skin, lungs, heart, kidneys and brain; causing seizures, strokes, heart attacks, miscarriages and organ failure; and

WHEREAS, Despite striking mostly women of childbearing age, no one is safe from lupus. African-Americans, Hispanics, Asians and Native Americans are two to three times more likely to develop lupus—a disparity that remains unexplained; and

WHEREAS, Lupus can be particularly difficult to diagnose because its symptoms are similar to those of many other illnesses, and major gaps exist in understanding the causes and consequences of lupus. More than half of all people with lupus take four or more years and visit three or more doctors before obtaining a correct diagnosis; and

WHEREAS, There have been no new pharmaceuticals approved by the U.S. Food and Drug Administration specifically for lupus in 50 years, and current treatments for the disease can have damaging side effects: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we designate the month of May as Lupus Awareness Month in the State of Kansas, and we urge all Kansans to educate themselves regarding the symptoms and impact of lupus and to join with the Lupus Foundation of America in supporting programs of research, education and community service; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Oletha Faust-Goudeau.

On emergency motion of Senator Faust-Goudeau **SR 1853** was adopted unanimously.

Senator Faust-Goudeau introduced members of the Lupus Association of American seated in the West Gallery in recognition of their support designating May as Lupus Awareness Month.

REPORT ON ENGROSSED BILLS

SB 520, SB 561, SB 570, SB 571, SB 574; SCR 1809 reported correctly engrossed March 23, 2010.

Also, **SB 415, SB 497** correctly re-engrossed March 23, 2010.

REPORT ON ENROLLED BILLS

SR 1847, SR 1848, SR 1849, SR 850, SR 1851 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 23, 2010.

REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **Substitute for HB 2320**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as “SENATE Substitute for Substitute for HOUSE BILL No. 2320,” as follows:

“SENATE Substitute for Substitute for HOUSE BILL No. 2320

By Committee on Ways and Means

“AN ACT providing for assessments on certain nursing facilities; prescribing powers, duties and functions for the Kansas health policy authority; creating the quality care assessment fund; providing for implementation and administration.”; and the substitute bill be passed.

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:

Recommended **SB 575; HB 2535, HB 2544**, be passed.

SB 579; HB 2551, be amended by adoption of the committee amendments, and the bills be passed as amended.

A motion by Senator Lee to amend **HB 2551** failed and the following amendment was rejected: on page 2, by striking all in lines 30 and 31 and inserting the following:

“Sec. 3. Sections 3 through 14, and amendments thereto, shall be known and may be cited as the property assessed renewable energy and energy efficiency (PARE) program act.

Sec. 4. As used in this act:

(a) "Energy efficiency improvement" means an installation or modification that is designed to reduce energy consumption in residential, commercial or industrial buildings, and may include, but is not limited to, the following:

- (1) Insulation in walls, roofs, floors and foundations and in heating and cooling distribution systems;
- (2) building envelope items, such as roofing, masonry, foundation, windows and doors;
- (3) automated or computerized energy control systems;
- (4) geothermal heating/cooling pumps, heating, ventilating or air conditioning and distribution system modifications or replacements;
- (5) caulking and weather-stripping;
- (6) replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination unless the increase in illumination is necessary to conform to the applicable building code for the proposed lighting system;
- (7) energy recovery systems;
- (8) daylighting systems;
- (9) cogeneration systems that produce steam or forms of energy such as heat, as well as electricity;
- (10) tankless hot water systems, solar hot water systems and low-flow bathroom fixtures and toilets; and
- (11) any other modification, installation or remodeling approved as a utility cost-savings measure by the governing body.

(b) "Governing body" means the governing body of a city or the board of county commissioners of a county.

(c) "Renewable energy improvement" means a fixture, product, system, device or interacting group of devices installed behind the meter of any residential, commercial or industrial building that produces energy from renewable resources, including, but not limited to, photovoltaic systems, solar thermal systems, small wind systems, biomass systems or geothermal systems, as may be authorized by the governing body.

Sec. 5. The governing body of any city or county, in accordance with the procedures and subject to the limitations of this act, may establish one or more energy management districts within the city or county for the purpose of constructing, installing or acquiring energy efficiency improvements or renewable energy improvements.

Sec. 6. Any city or county may construct energy efficiency improvements or renewable energy improvements and assess the cost thereof, wholly or in part, against the property especially benefited by such improvements. The improvements shall be authorized by city ordinance or county resolution and shall be constructed under the direction of the municipal engineer or other officer having similar duties or under the direction of the governing body in accordance with plans and specifications adopted by the governing body or, if such improvements qualify pursuant to the ordinance or resolution of the governing body, the owner of the real property may arrange for the improvements and obtain financing for the improvements from the city or county through the process set forth in the ordinance or resolution forming the district.

Sec. 7. Any city or county may initiate the formation of an energy management district by the adoption of a resolution of intent. Such resolution of intent shall contain the following: (a) The intent to designate an area for the assessment, even if the area will cover the entire city or county; (b) a description of the boundaries of the proposed district; (c) a general description of the goals and details to be provided within the district; (d) a finding that the district served a public purpose of the governing body by achieving its defined goals; (e) a summary of the eligible energy efficiency improvements and renewable energy improvements; (f) such other information as deemed advisable by the governing body; and (g) the time and place of a public hearing to be held by the governing body to consider establishment of the district.

Sec. 8. Notice of the public hearing on the proposed establishment of an energy management district shall be published once in the official newspaper of the city or county and a copy of such notice and a copy of the resolution of intent shall be mailed by first class mail to all owners of real property in the proposed district. Publication and mailing shall be

at least 30 days prior to the hearing and the hearing shall be held not later than 60 days after adoption of the resolution of intent.

Sec. 9. If the city or county, following the public hearing, determines it advisable and in the public interest to establish a district, the city or county shall create the district by ordinance or resolution, as appropriate. The ordinance or resolution creating the district shall contain the following: (a) A description of the boundaries of the district; (b) a list of all eligible energy efficiency improvements and renewable energy improvements; (c) a finding that the district serves a public purpose of the city or county by achieving the district's defined goals; (d) a method for ranking requests from owners of real property for financing through contractual assessments if requests exceed the authorization amount; (e) specification of whether the owners of real property may purchase the equipment for the energy efficiency improvement or renewable energy improvement directly or contract for the installation; (f) a draft contract specifying the terms and conditions to be agreed upon by the city or county and any owner of real property on which the improvements are to be made; and (g) the terms of members, method of appointment and duties of any manager, administrator or board established to oversee and manage the financing of any energy efficiency improvements or renewable energy improvements in the district. The boundaries of the district may include less territory than that described in the resolution of intent but may not include any territory not described in the resolution of intent. Following the creation of the district, owners of real property within the assessment area may opt-in to the program voluntarily.

Sec. 10. Within 45 days following publication of an ordinance establishing a district pursuant to section 9, and amendments thereto, the owners of real property located within the district may file with the governing body a petition in opposition to the continuation of the district. Upon a finding that a petition opposing the establishment of the district was signed by not less than a majority of the number of owners of real property located within the district, the district shall be dissolved.

Sec. 11. Any modification of the area included within an energy management district shall be made by ordinance or resolution, as appropriate, following a public hearing, preceded by at least 30 days' written notice to all owners of real property within the existing and proposed district, served by first class mail. Any energy management district may be abolished by ordinance or resolution, as appropriate, following a public hearing, preceded by at least 30 days' written notice to all owners within the district by first class mail.

Sec. 12. (a) A city or county which has created an energy management district pursuant to this act may issue bonds in one or more series to finance energy efficiency improvements or renewable energy improvements to real property located within such district. Such bonds shall be made payable, both as to principal and interest, solely from a pledge of revenues from special assessments imposed pursuant to section 13, and amendments thereto.

(b) Bonds issued pursuant to this section shall not be general obligations of the city or county, give rise to a charge against the general credit or taxing powers of the city or county or be payable out of any funds or properties other than the revenues described in subsection (a).

(c) Bonds issued pursuant to this section shall be special obligations of the city or county and are declared to be negotiable instruments. Such bonds shall be executed by the authorized representatives of the city or county and sealed with the corporate seal of the city or county. All details pertaining to the issuance of the bonds and terms and conditions thereof shall be determined by ordinance or resolution of the city or county. The provisions of K.S.A. 10-106, and amendments thereto, requiring a public sale of bonds shall not apply to bonds issued under this section. All bonds issued pursuant to this section and all income or interest therefrom shall be exempt from all state taxes except inheritance taxes. Such bonds shall contain none of the recitals set forth in K.S.A. 10-112, and amendments thereto. Such bonds shall contain the following recitals: The authority under which such bonds are issued; that such bonds are in conformity with the provisions, restrictions and limitations thereof; and that such bonds and the interest thereon are to be paid from the money and revenues described in subsection (a). Such bonds shall mature in no more than 22 years.

(d) Any city or county issuing bonds under the provisions of this act shall not use the bonds to generate revenue.

(e) Any city or county issuing bonds under the provisions of this act may refund all or part of such issue pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

(f) Bonds issued under the provisions of this act shall be in addition to and not subject to any statutory limitation of bonded indebtedness imposed on the city or county.

Sec. 13. (a) The governing body which has created an energy management district shall levy and collect special assessments upon real property in the district on which energy efficiency improvements or renewable energy improvements have been made pursuant to this act. The governing body shall provide for the payment of all costs of such improvements out of the proceeds of such special assessments. The governing body shall provide for the payment of the administrative costs of the improvements, not to exceed 5% of the total costs of such improvements, out of the proceeds of such special assessment. In making such assessments, the city or county shall follow the procedures provided in K.S.A. 12-6a01 et seq., and amendments thereto, except that the cost to be assessed shall be determined in accordance with the terms of the contract between the city or county and the owner of the real property upon which the improvements are made.

(b) Assessments pursuant to this act shall be payable at the time of the payment of general property taxes. All assessments shall bear interest at such rate as provided by the contract between the city or county and the owner of the real property upon which the improvements are made. Such assessments shall be collected and paid over to the city or county treasurer in the same manner as other taxes of the city or county are collected and paid. At any time prior to the date when an assessment is due, the owner of the real property may pay the whole of the assessment against such property with interest accrued to the date of payment to the city or county treasurer.

Sec. 14. (a) No improvement shall be made if the governing body determines that the owner of the real property cannot demonstrate sufficient income or other sufficient financial means, excluding the value of the real property, to pay the special assessment.

(b) Real property shall be considered eligible for purposes of this act if the total unpaid balances of debts secured by mortgages and other liens does not exceed 80% of the market value of the real property.

(c) The costs of renewable energy and energy efficiency improvements on the property shall not exceed 10% of the appraised value of the property.

(d) Any lien filed pursuant to a special assessment authorized by this act shall be subject to all prior liens of record. The lien must be filed in the office of the register of deeds of the county where the real property is located and must contain the legal description of all real property in the county subject to the lien.

Sec. 15. This act shall take effect and be in force from and after its publication in the statute book."

In the title, in line 10, by striking all after "concerning"; in line 11, by striking all before the period and inserting "counties and municipalities; relating to bonds for certain purposes"

The committee report on **HB 2585** recommending a **Senate Sub for HB 2585** be adopted, and the substitute bill be passed.

SB 580 be amended by adoption of the committee amendments, be further amended by motion of Senator Bruce on page 4, by striking all in lines 17 and 18; in line 19, by striking "(h)" and inserting "(g)" and **SB 580** be passed as further amended.

HB 2691 be amended by motion of Senator Holland on page 1, in line 15, after "Section 1." by inserting "From and after July 1, 2010,";

On page 3, after line 14, by inserting the following:

"Sec. 2. K.S.A. 2009 Supp. 58-4505 is hereby amended to read as follows: 58-4505. (a) Except as provided in subsections (b) and (c), the board may deny, suspend or revoke a registration, or may impose probationary conditions on a registrant or applicant if the registrant or applicant has engaged in any of the following conduct:

(1) Making a materially false or fraudulent statement in an application for registration or renewal;

(2) been convicted of or plead guilty or nolo contendere in a court of competent jurisdiction to any misdemeanor involving dishonesty;

(3) intentionally falsifying a home inspection report;

(4) performing any of the following acts as part of the home inspection:

(A) inspecting for a fee any property in which the home inspector has any personal or financial interest unless the interest is disclosed in writing to the client before the home inspection is performed and the client signs an acknowledgment of receipt of the disclosure;

(B) offering or delivering any commission, referral fee or kickback for the referral of any business to the home inspector; and

(C) accepting an engagement to perform a home inspection or to prepare a home inspection report in which the employment itself or the fee payable for the inspection is contingent upon the conclusions in the home inspection report, pre-established or pre-scribed findings or the closing of the underlying real estate transaction;

(5) including as a term or condition in an agreement to conduct a home inspection any provision that disclaims the liability of the registered home inspector for any errors and omissions which may arise during a home inspection or to limit the amount of damage for liability for any errors and omissions which may arise during a home inspection to less than ~~\$10,000~~ \$2,000 in the aggregate for each home inspection;

(6) failing to provide a client with a pre-inspection notice prior to the home inspection;

(7) failing to substantially follow the approved standards of practice and code of ethics;

(8) failing to respond as requested by the board to any summons for attendance and testimony or to produce documents or any other physical evidence during an investigation into the qualifications of or allegations of misconduct of an applicant or registrant; and

(9) violating any provision of this act or rules and regulations promulgated by the board pursuant to this act.

(b) (1) Except as provided in paragraph (2), the board shall refuse to issue a registration to an applicant or registrant if the applicant or registrant has entered a plea of guilty or nolo contendere to, or has been convicted of:

(A) (i) Any offense that is comparable to any crime which would require the applicant to register as provided in the Kansas offender registration act; or

(ii) any federal, military or other state conviction for an offense that is comparable to any crime under the laws of this state which would require the applicant to register as provided in the Kansas offender registration act; or

(B) (i) Any felony other than a felony under subparagraph (A); or

(ii) any federal, military or other state conviction for an offense that is comparable to any under the laws of this state other than a felony under subparagraph (A).

(2) The board may grant an original registration pursuant to subsection (c) if the applicant's or registrant's application is received at least:

(A) Fifteen years after the date of the applicant's or registrant's discharge from postrelease supervision, completion of any nonprison sanction or suspension of the imposition of the sentence resulting from any plea of guilty or nolo contendere to or conviction of any offense specified in subparagraph (A) of paragraph (1); or

(B) five years after the date of the applicant's discharge from postrelease supervision, completion of any nonprison sanction or suspension of the imposition of the sentence resulting from any plea of guilty or nolo contendere to or conviction of any offense specified in subparagraph (B) of paragraph (1), whichever is applicable.

(3) For the purposes of this subsection, "postrelease supervision" shall have the meaning ascribed to it in K.S.A. 21-4703 and amendments thereto.

(4) For the purposes of this subsection, "nonprison sanction" shall have the meaning ascribed to it in K.S.A. 21-4703 and amendments thereto.

(c) (1) The board may renew or grant an original registration to an applicant or registrant who has entered a plea of guilty or nolo contendere to, or has been convicted of any misdemeanor or any crime listed in paragraph (1) of subsection (b) if the applicant or registrant presents to the board satisfactory proof that the applicant or registrant now bears a good reputation for honesty, trustworthiness, integrity and competence to transact the business of registered home inspector in such a manner as to safeguard the interest of the public. The burden of proof shall be on the applicator or registrant to present such evidence to the board.

(2) In determining whether or not the applicant or registrant presently has a good reputation as required in this subsection, the board shall consider the following additional factors:

- (A) The extent and nature of the applicant's or registrant's past criminal activity;
 - (B) the age of the applicant or registrant at the time of the commission of the crime or crimes;
 - (C) the amount of time elapsed since the applicant's or registrant's last criminal activity;
 - (D) the conduct and work activity of the applicant or registrant prior to and following the criminal activity; and
 - (E) evidence of the applicant's or registrant's rehabilitation or rehabilitative effort; and
 - (F) all other evidence of the applicant's or registrant's present fitness for a registration.
- (d) In addition to or in lieu of any other administrative, civil or criminal remedy provided by law, if the board determines after notice and an opportunity for a hearing in accordance with the Kansas administrative procedures act that a registrant has violated any provision of this act or any rule and regulation adopted hereunder, the board may impose on such registrant a civil fine not to exceed \$500 for each violation.
- (e) All proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

Sec. 3. K.S.A. 2009 Supp. 58-4512 is hereby amended to read as follows: 58-4512. (a) It is the duty of all home inspectors registered under this act to conduct home inspections with the degree of care that a reasonably prudent home inspector would exercise under the circumstances.

(b) All home inspections shall be conducted according to a standard of practice and a code of ethics approved by the board.

(c) No registered home inspector may include, as a term or condition in an agreement to conduct a home inspection, any provision that disclaims the liability for any errors and omissions which may arise during a home inspection, or limit the amount of damages for liability for any errors and omissions which may arise during a home inspection to less than ~~\$10,000~~ \$2,000 in the aggregate for each home inspection and such term or condition or limitation setting the liability at an amount greater than ~~\$10,000~~ \$2,000 must be provided to the customer in writing to be in effect.

(d) An action to recover damages for any act or omission of a registered home inspector relating to a home inspection or home inspection report must be brought not more than 12 months from the date the home inspection was performed and may be initiated only by the client for which the home inspection was conducted.

(e) In any action to recover damages for any error or omission of a registered home inspector relating to a home inspection or home inspection report, a registered home inspector is liable for any errors and omissions which may arise during a home inspection in an amount of not to exceed \$2,000 in the aggregate for each home inspection, or to the amount in the pre-inspection agreement to conduct a home inspection, if greater than \$2,000 in the aggregate for each home inspection, provided that a registered home inspector provides the customer with a clear written description in the pre-inspection agreement of any greater limitations on the liability of the registered home inspector for any errors and omissions which may arise during the home inspection.

(f) All home inspectors registered under this act shall provide clients with a written pre-inspection notice prior to the home inspection.”;

Also on page 3, in line 15, by striking “75-3717 is” and inserting “58-4505 and 58-4512 are”; also after line 15, by inserting the following:

“Sec. 5. On July 1, 2010, K.S.A. 2009 Supp. 75-3717 is hereby repealed.”;

And by renumbering the sections accordingly;

Also on page 3, in line 17, by striking “statute book” and inserting “Kansas register”;

In the title, in line 9, by striking “budget estimates of” and inserting “certain”; in line 10, after the semicolon by inserting “relating to the”; in line 11, after “Supp.” by inserting “58-4505, 58-4512 and”; in line 12, by striking “section” and inserting “sections” and **HB 2691** be passed as amended.

S Sub for HB 2079 be amended by adoption of the committee report recommending a substitute bill. The following motion by Senator Kultala to amend **S Sub for HB 2079** was adopted: on page 5, in line 23, by striking all after “attorney,”; in line 24, by striking all before “or”; in line 27, after “senator” by inserting “or member of the state board of education”;

On page 6, in line 27, by striking all after “attorney,”; in line 28, by striking all before “or”; in line 30, after “senator” by inserting “or member of the state board of education”;

Senator Huntington moved to amend **S Sub for HB 2079** on page 6, after line 42, by inserting the following:

“New Sec. 3. On and after July 1, 2010, (a) any person who spends or contracts to spend an amount of \$500 or more per calendar year for any electioneering communication shall submit a campaign finance report prescribed and provided by the governmental ethics commission for each electioneering communication, which shall include:

(1) The name of the clearly identified candidate mentioned in the electioneering communication;

(2) the name, street address, city, state and zip code of each individual or other entity that contributes more than \$500 per year to such person for an electioneering communication. In addition, the report shall list the occupation of any individual who contributed \$500 or more;

(3) the name, street address, city, state and zip code of the vendor to whom a payment of more than \$500 for such electioneering communication is made or contracted to be made; and

(4) the amount spent on or contracted to be spent on such electioneering communication. If the person making the electioneering communication is an individual, such reports shall also include the occupation of such individual. Reports required by this section shall be in addition to any other reports required by law.

(b) (1) (A) For an electioneering communication concerning a candidate for state office, the report required by subsection (a) shall be filed only with the secretary of state.

(B) For an electioneering communication concerning a candidate for local office, the report required by subsection (a) shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot.

(2) Except as required by paragraph (3), each report required by subsection (a) shall be filed in time to be received in the offices required in accordance with the times set forth in K.S.A. 25-4148 and amendments thereto.

(3) For any electioneering communication occurring during the 11 days preceding the election, the report required by subsection (a) shall be filed on or before the close of the second business day following the day in which such funds are spent or contracted to be spent for such electioneering communication.

(c) (1) Any electioneering communication placed in a newspaper or other periodical must be followed by the word “advertisement” or the abbreviation “adv.” in a separate line together with the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

(2) Any electioneering communication which is broadcast or caused to be broadcast by any radio or television station must be followed by a statement which states: “Paid for” or “Sponsored by” followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

(3) Any electioneering communication which is made by telephone or contact made by any telephonic means including, but not limited to, any device using a voice over internet protocol or wireless telephone, must be preceded by a statement which states: “Paid for” or “Sponsored by” followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

(4) Any electioneering communication which is published or caused to be published in any brochure, flier or other political fact sheet shall be followed by a statement which states: “Paid for” or “Sponsored by” followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

(d) For the purpose of this section:

(1) “Electioneering communication” means any communication that reaches 500 or more persons broadcast by television or radio, printed in a newspaper or on a billboard, directly

mailed or delivered by hand to personal residences, phone calls or otherwise distributed that:

(A) Unambiguously refers to any clearly identified candidate;
 (B) is broadcast, printed, mailed, delivered or distributed within 30 days before a primary election or 60 days before a general election; or

(C) is broadcast to, printed in a newspaper distributed to, mailed to, delivered by hand to or otherwise distributed to an audience that includes members of the electorate for such public office.

(2) "Electioneering communication" does not include:

(A) Any news articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate or political party;

(B) any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;

(C) any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families;

(D) any communication that refers to any candidate only as part of the popular name of a bill or statute;

(E) any communication made solely to promote a candidate debate or forum that is made by or on behalf of the person sponsoring such debate or forum; or

(F) any communication made as part of a nonpartisan activity designed to encourage individuals to vote or register to vote.

(e) Any federally registered political action committee that pays for electioneering communications in Kansas, which has reported all of its contributions and expenditures to the federal elections commission in compliance with the federal elections campaign act (FECA) shall not be subject to the disclosures to the state of Kansas under section (a), but shall be subject to all other disclosures under this section.

(f) The provisions of this section shall be part of and supplemental to the campaign finance act.”;

And by renumbering the remaining sections accordingly;

In the title, in line 11, by striking all after the semicolon; in line 12, by striking all before “amending“

Upon the showing of five hands a roll call was requested:

On roll call, the vote was: Yeas 18, Nays 21, Present and Passing 1, Absent or Not Voting 0.

Yeas: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Lee, McGinn, Morris, Owens, Reitz, Schmidt V, Umbarger, Vratil.

Nays: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schodorf, Taddiken, Teichman, Wagle.

Present and Passing: Steineger.

The motion failed and the amendment was rejected.

EXPLANATION OF VOTE

MR. CHAIRMAN: I believe strongly in transparency in our public affairs. We must have open transparent government in order to conduct the public's business. Individual Kansans, however, should have the same guarantees our Founding Fathers used to form this great republic.

Three voices from American history—Publius, Brutus, and Silence Dogood — protected individuals. Benjamin Franklin used the alias of the widow Silence Dogood to comment about colonial America. The great debate that founded this country was argued in the Federalist Papers and the Anti-Federalist Papers. John Jay, Alexander Hamilton, and James Madison wrote the Federalist Papers, under the pseudonym, Publius. Publius even argues against a Bill of Rights (Federalist 84) because it might only give individuals very limited

rights. Robert Yates and Thomas Jefferson argued back to pass the Bill of Rights under the pseudonym, Brutus. Their debate should be instructive to us over 200 years later.

Individual Kansans deserve the same protections our Founding Fathers relied upon to give us the freedoms we exercise today. — JEFF COLYER

Senator Petersen requests the record to show he concurs with the “Explanation of Vote” offered by Senator Colyer on **S Sub for HB 2079**.

S Sub for HB 2079 be passed over and retain a place on the calendar.

S Sub for HB 2582 be amended by adoption of the committee amendments recommending a substitute bill. Senator Apple moved to amend the bill on page 6, in line 30, before “Not” and inserting “The LCPA shall utilize a competitive bidding process to select a neutral, competent and bonded third party administrator.

(b)”;

And by redesignating subsections accordingly;

Also on page 6, in line 32, after “LCPA” by inserting “administrator” and **S Sub for HB 2582** 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 575, SB 579, SB 580; HB 2535, HB 2544, HB 2551; S Sub for HB 2585; HB 2691** were advanced to Final Action and roll call.

SB 575. An act concerning the special city and county highway fund; amending K.S.A. 2009 Supp. 79-3425i 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.

SB 579. An act regulating traffic; concerning sun screening devices; providing for certain exemptions; amending K.S.A. 8-1749a and repealing the existing section.

On roll call, the vote was: Yeas 36, Nays 4, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Faust-Goudeau, Haley, Pilcher-Cook, Pyle.

The bill passed, as amended.

SB 580. An act concerning the division of post audit; amending K.S.A. 2009 Supp. 46-1118, 46-1121 and 46-1132 and repealing the existing sections; also repealing K.S.A. 2009 Supp. 46-1130.

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.

HB 2535. An act designating a part of K-61 highway as the John Neal memorial highway.

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, Kel-

sey, 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.

HB 2544, An act concerning the state public trust established for certain communities within superfund sites; attendance at meetings; providing for abolition of the trust; amending K.S.A. 2009 Supp. 49-512 and repealing the existing section.

On roll call, the vote was: Yeas 39, Nays 1, 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, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Pilcher-Cook.

The bill passed.

HB 2551, An act concerning recovery zone bonds; granting authority to the department of commerce to recapture unissued bonds.

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.

S Sub for HB 2585, An act concerning journalists; providing a privilege with regard to certain disclosures of information.

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

Yeas: Abrams, Apple, 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.

Nays: Barnett.

The substitute bill passed.

HB 2691, An act concerning certain state agencies; relating to biennial estimates for certain state agencies; relating to the Kansas home inspectors registration board; amending K.S.A. 2009 Supp. 58-4505, 58-4512 and 75-3717 and repealing the existing sections.

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.

MESSAGE FROM THE HOUSE

The House accedes to the request of the Senate for a conference on **House Substitute for SB 262** and has appointed Representatives Landwehr, Crum and Flaharty as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 387** and has appointed Representatives Yoder, Merrick and Feuerborn as conferees on the part of the House.

The House announces the appointment of Representative King to replace Representative Vickrey as a conferee on **HB 2130**.

The House announces the appointment of Representative King to replace Representative Vickrey as a conferee on **HB 2482**.

The House announces the appointment of Representative King to replace Representative Vickrey as a conferee on **HB 2486**.

ORIGINAL MOTION

On motion of Senator Reitz, the Senate acceded to the request of the House for a conference on **HB 2472**.

The Vice President appointed Senators Reitz, Huntington and Kultala as conferees on the part of the Senate.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Wednesday, March 24, 2010.

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

