

Journal of the Senate

FIFTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, April 1, 2011, 9:00 a.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-eight senators present.
Senators Donovan and McGinn were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

The first day of April has been called April Fools Day for a long time. While there have been lots of tricks pulled, sometimes “April Fool” can be heard with a sigh of relief.

If I get a call from home
Saying my kid's dropped out of school,
Let me hear those welcome words,
“It's just April Fool.”

And the I.R.S. tells me
That I broke some rules,
Let the words that follow say
“It's just April Fool.”

And should my hometown paper
Hold me up to ridicule,
It would be a relief to read,
“It's just April Fool.”

After telling my son to buy a horse,
And my wife says it's a mule;
Please let me hear her say,
“It's just April Fool.”

And most of all.....
If the President announces,
“An extra session would be cool”
Please let us hear him quickly add,

“It’s just April Fool.”

I pray this in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Ways and Means: **Sub HB 2296**.

CHANGE OF REFERENCE

The President withdrew **Sub HB 2157; HB 2392** from the Calendar under the heading of General Orders and rereferred the bills to the Committee on **Assessment and Taxation**.

MESSAGE FROM THE GOVERNOR

SB 15, SB 152, SB 179, SB 185, SB 186, SB 188, SB 212 approved on March 31, 2011.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2269, HB 2383**.

The House nonconcur in Senate amendments to **HB 2312**, requests a conference and has appointed Representatives Colloton, Kinzer and McCray-Miller as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2269, HB 2383 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

Senator Petersen moved the Senate concur in House amendments to **Sub SB 72**.

Sub SB 72, AN ACT concerning telecommunications; amending K.S.A. 50-6,103 and 66-1,187 and K.S.A. 2010 Supp. 66-2005 and repealing the existing sections.

On roll call, the vote was: Yeas 31, Nays 7, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Brungardt, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, Kultala, Longbine, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Apple, Bruce, Emler, King, Love, Ostmeier, Schmidt A.

Absent or Not Voting: Donovan, McGinn.

The Senate concurred.

Senator Brungardt moved the Senate concur in House amendments to **SB 80**.

SB 80, AN ACT concerning alcoholic beverages; amending K.S.A. 2010 Supp. 41-102, 41-308b and 41-2703 and repealing the existing sections.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, McGinn.

The Senate concurred.

Senator Huntington moved the Senate concur in House amendments to **SB 125**.

SB 125, AN ACT concerning elections; relating to candidate filing deadlines; amending K.S.A. 2-624 and 25-4004 and K.S.A. 2010 Supp. 25-205 and repealing the existing sections.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, McGinn.

The Senate concurred.

Senator Apple moved the Senate concur in House amendments to **SB 224**.

SB 224, AN ACT concerning; utilities amending; K.S.A. 2010 Supp. 66-2203 and repealing the existing section.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, McGinn.

The Senate concurred.

Senator Apple moved the Senate concur in House amendments to **SB 227**.

SB 227, AN ACT concerning property; relating to renewable energy; amending K.S.A. 58-2272 and repealing the existing section.

On roll call, the vote was: Yeas 37, Nays 1, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Bruce.

Absent or Not Voting: Donovan, McGinn.

The Senate concurred.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2020**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, in line 10, before "K.S.A." by inserting "On July 1, 2011,";

On page 2, following line 34, by inserting the following:

"Sec. 2. K.S.A. 47-1731 is hereby amended to read as follows: 47-1731. (a) No dog or cat may be transferred to the permanent custody of a prospective owner by a pound or animal shelter, as defined by K.S.A. 47-1701, and amendments thereto, or by a humane society, unless:

(1) Such dog or cat has been surgically spayed or neutered before the physical transfer of the animal occurs; or

(2) the prospective owner signs an agreement to have the dog or cat spayed or neutered and deposits with the pound or animal shelter funds not less than the lowest nor more than the highest cost of spaying or neutering in the community. Any funds deposited pursuant to such an agreement shall be refunded to such person upon presentation of a written statement signed by a licensed veterinarian that the dog or cat has been spayed or neutered. If such person does not reclaim the deposit within six months after receiving custody of the animal, the pound or animal shelter shall keep the deposit and may reclaim the unspayed or unneutered animal.

(b) No person shall spay or neuter any dog or cat for or on behalf of a pound or animal shelter unless such person is a licensed veterinarian or a student currently enrolled in the college of veterinary medicine, Kansas state university, who has completed at least two years of study in the veterinary medical curriculum and is participating in a spay or neuter program *and* as part of the curriculum under the direct supervision of a licensed veterinarian ~~who is a faculty member at the Kansas state university veterinary medical center. The spay or neuter program shall only be conducted at the surgery clinic at the Kansas state university medical center in Manhattan, Kansas.~~ *Students shall only spay or neuter any dog or cat that belongs to the pound or animal shelter, and shall not spay or neuter any dog or cat that belongs to a member of the public.* No pound or animal shelter shall designate the veterinarian which a person must use, or a list from which a person must select a veterinarian, to spay or neuter a dog or cat transferred by such person from such pound or animal shelter. Any premises located in the state of Kansas where the spaying, neutering or any other practice of veterinary medicine occurs shall register such premises with the board of veterinary examiners.

(c) With the written approval of the livestock commissioner, any pound or shelter may use an innovative spay or neuter program not precisely meeting the requirements of subsection (a)(2), if the pound or shelter can prove to the commissioner that it is actively enforcing the spaying and neutering requirements set forth in this statute.

(d) Nothing in this section shall be construed to require sterilization of a dog or cat which is being held by a pound or animal shelter and which may be claimed by its rightful owner within the holding period established in K.S.A. 47-1710, and amendments thereto.

(e) The livestock commissioner shall promulgate rules and regulations as may be necessary to carry out the provisions of this section.

Sec. 3. On July 1, 2011, K.S.A. 2010 Supp. 74-32,181 is hereby amended to read as follows: 74-32,181. ~~(a) This section is subject to the provisions of K.S.A. 2010 Supp. 74-32,181a, and amendments thereto.~~

~~(b) (a) The state board shall fix, charge and collect fees for certificates of approval, registration of representatives and providing transcripts to students who attended an institution that has ceased operation not to exceed the following amounts by adopting rules and regulations for such purposes, subject to the following limitations:~~

(1) For institutions domiciled or having their principal place of business within the state of Kansas:

Initial issuance of certificate of approval nondegree granting — not more than.....	\$1,700
Initial issuance of certificate of approval degree granting — not more than.....	\$2,000
Renewal of certificate of approval nondegree granting — not more than.....	\$1,200
Renewal of certificate of approval degree granting — not more than.....	\$1,600
Initial registration of representative — not more than.....	\$150
Annual renewal of registration of representative — not more than.....	\$100
<i>Initial application fees:</i>	
<i>Non-degree granting institution.....</i>	<i>\$2,000</i>
<i>Degree granting institution.....</i>	<i>\$3,000</i>
<i>Initial evaluation fee (in addition to initial application fees):</i>	
<i>Non-degree level.....</i>	<i>\$750</i>
<i>Associate degree level.....</i>	<i>\$1,000</i>
<i>Baccalaureate degree level.....</i>	<i>\$2,000</i>
<i>Master's degree level.....</i>	<i>\$3,000</i>
<i>Professional or doctoral degree level.....</i>	<i>\$4,000</i>
<i>Renewal application fees:</i>	
<i>Non-degree granting institution.....</i>	<i>2% of gross tuition, but not less than \$800, nor more than \$25,000</i>
<i>Degree granting institution.....</i>	<i>2% of gross tuition, but not less than \$1,600, nor more than \$25,000</i>
<i>New program submission fees, for each new program:</i>	
<i>Non-degree program.....</i>	<i>\$250</i>
<i>Associate degree program.....</i>	<i>\$500</i>
<i>Baccalaureate degree program.....</i>	<i>\$750</i>
<i>Master's degree program.....</i>	<i>\$1,000</i>
<i>Professional or doctoral degree program.....</i>	<i>\$2,000</i>
<i>Program modification fee, for each program.....</i>	<i>\$100</i>
<i>Branch campus site fees, for each branch campus site:</i>	
<i>Initial non-degree granting institution.....</i>	<i>\$1,500</i>
<i>Initial degree granting institution.....</i>	<i>\$2,500</i>
<i>Renewal branch campus site fees, for each branch campus site:</i>	
<i>Non-degree granting institution.....</i>	<i>2% of gross tuition, but not less than \$800, nor more than \$25,000</i>
<i>Degree granting institution.....</i>	<i>2% of gross tuition, but not less than \$1,600, nor more than \$25,000</i>
<i>Onsite branch campus review fee, for each site.....</i>	<i>\$250</i>

Representative fees:

<i>Initial registration.....</i>	<i>.....\$200</i>
<i>Renewal of registration.....</i>	<i>.....\$150</i>
<i>Late submission of renewal of application fee.....</i>	<i>.....\$125</i>
<i>Student transcript copy fee.....</i>	<i>.....\$10</i>
<i>Returned check fee.....</i>	<i>.....\$50</i>

Changes in institution profile fees:

<i>Change of institution name.....</i>	<i>.....\$100</i>
<i>Change of institution location.....</i>	<i>.....\$100</i>
<i>Change of ownership only.....</i>	<i>.....\$100</i>

(2) For institutions domiciled or having their principal place of business outside the state of Kansas:

<i>Initial issuance of certificate of approval nondegree granting — not more than.....</i>	<i>.....\$3,400</i>
<i>Initial issuance of certificate of approval degree granting — not more than.....</i>	<i>.....\$3,800</i>
<i>Renewal of certificate of approval nondegree granting — not more than.....</i>	<i>.....\$2,400</i>
<i>Renewal of certificate of approval degree granting — not more than.....</i>	<i>.....\$2,800</i>
<i>Initial registration of representative — not more than.....</i>	<i>.....\$300</i>
<i>Annual renewal of registration of representative — not more than.....</i>	<i>.....\$200</i>
<i>Student transcript from institution that has ceased operation — not more than.....</i>	<i>.....\$10</i>

Initial application fees:

<i>Non-degree granting institution.....</i>	<i>.....\$4,000</i>
<i>Degree granting institution.....</i>	<i>.....\$5,500</i>

Initial evaluation fee (in addition to initial application fees):

<i>Non-degree level.....</i>	<i>.....\$1,500</i>
<i>Associate degree level.....</i>	<i>.....\$2,000</i>
<i>Baccalaureate degree level.....</i>	<i>.....\$3,000</i>
<i>Master's degree level.....</i>	<i>.....\$4,000</i>
<i>Professional or doctoral degree level.....</i>	<i>.....\$5,000</i>

Renewal application fees:

<i>Non-degree granting institution.....</i>	<i>.....3% of gross tuition, but not less than \$2,400 nor more than \$25,000</i>
<i>Degree granting institution.....</i>	<i>.....3% of gross tuition, but not less than \$3,000 nor more than \$25,000</i>

New program submission fees, for each new program:

<i>Non-degree program.....</i>	<i>.....\$500</i>
<i>Associate degree program.....</i>	<i>.....\$750</i>
<i>Baccalaureate degree program.....</i>	<i>.....\$1,000</i>
<i>Master's degree program.....</i>	<i>.....\$1,500</i>
<i>Professional or doctoral degree program.....</i>	<i>.....\$2,500</i>
<i>Program modification fee, for each program.....</i>	<i>.....\$100</i>

Branch campus site fees, for each branch campus site:

<i>Initial non-degree granting institution.....</i>	<i>.....\$4,000</i>
<i>Initial degree granting institution.....</i>	<i>.....\$5,500</i>

Renewal branch campus site fees, for each branch campus site:

<i>Non-degree granting institution.....</i>	<i>.....3% of gross tuition, but not less than \$2,400 nor more than \$25,000</i>
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Degree granting institution.....3% of gross tuition, but not less than \$3,000 nor more than \$25,000

Onsite branch campus review fee, for each site.....\$500

Representative fees:

Initial registration.....\$350

Renewal of registration.....\$250

Late submission of renewal of application fee.....\$125

Student transcript copy fee.....\$10

Returned check fee.....\$50

Changes in institution profile fees:

Change of institution name.....\$100

Change of institution location.....\$100

Change of ownership only.....\$100

~~(b)~~ Fees shall not be refundable.

~~(c)~~ If there is a change in the ownership of an institution and, if at the same time, there also are changes in the institution's programs of instruction, location, entrance requirements or other changes, the institution shall be required to submit an application for an initial certificate of approval and shall pay all applicable fees associated with an initial application.

~~(d)~~ An application for renewal shall be deemed late if the applicant fails to submit a completed application for renewal, or documentation requested by the state board to complete the renewal process, before the expiration date of the current certificate of approval.

~~(e)~~ The state board shall determine on or before June 1 of each year the amount of revenue which will be required to properly carry out and enforce the provisions of the Kansas private and out-of-state postsecondary educational institution act for the next ensuing fiscal year and shall fix the fees authorized for such year at the sum deemed necessary for such purposes within the limits of this section. Prior to adoption of any such fees, the state board shall afford the advisory commission an opportunity to make recommendations on the proposed fees.

~~(f)~~ Fees may be charged to conduct onsite reviews for degree granting and non-degree granting institutions or to review curriculum in content areas where the state board does not have expertise.

(g) The provisions of this section shall expire on June 30, 2012.;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 35, before "K.S.A." by inserting "On July 1, 2011,;"

On page 3, in line 34, before "K.S.A." by inserting "On July 1, 2011,;" also in line 34, after "Supp." by inserting "74-32,181, 74-32,181a and"; following line 35, by inserting the following:

"Sec. 6. K.S.A. 47-1731 is hereby repealed.;"

And by renumbering the remaining section accordingly;

Also on page 3, in line 37, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, in line 5, before "authorizing" by inserting "relating to fees imposed under the Kansas private and out-of-state postsecondary educational institution act; relating to certain veterinary practices by students;"; in line 6, after "and" where it appears the first time, by inserting "47-1731 and"; also in line 6, after "Supp." by inserting "74-32,181 and"; in line 7, before the period, by inserting "; also repealing

K.S.A. 2010 Supp. 74-32,181a";

And your committee on conference recommends the adoption of this report.

JEAN KURTIS SCHODORF

JOHN VRATIL

ANTHONY HENSLEY

Conferees on part of Senate

CLAY AURAND

STEVE HUBERT

JIM WARD

Conferees on part of House

Senator Schodorf moved the Senate adopt the Conference Committee Report on **HB 2020**.

On roll call, the vote was: Yeas 36, Nays 2, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Lynn, Pilcher-Cook.

Absent or Not Voting: Donovan, McGinn.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2044**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate committee amendments, as follows:

On page 1, in line 27, by striking "5" and inserting "6"; also in line 27, before the period, by inserting ", except as provided in subsection (a)(5)"; following line 27, by inserting "(5) The death of any person, if the person knew or reasonably should have known that such accident resulted in injury or death.";

On page 4, in line 38, following "40" by inserting "of chapter 136 of the 2010 Session Laws of Kansas";

And your committee on conference recommends the adoption of this report.

DWAYNE UMBARGER

BOB MARSHALL

KELLY KULTALA

Conferees on part of Senate

PAT COLLOTON

LANCE KINZER

MELODY MCCRAY-MILLER

Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on **HB 2044**.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, McGinn.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **S Sub for HB 2049**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate substitute for HB 2049, as follows:

On page 7, by striking all in lines in 20 through 22;

And redesignating remaining paragraphs accordingly;

On page 10, following line 5, by inserting the following:

“(10) 9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol

Some trade or other names: HU-210, HU 211.”;

And your committee on conference recommends the adoption of this report.

VICKI SCHMIDT

PETE BRUNGARDT

LAURA KELLY

Conferees on part of Senate

PAT COLLOTON

LANCE KINZER

MELODY McCRAY-MILLER

Conferees on part of House

Senator V. Schmidt moved the Senate adopt the Conference Committee Report on **S Sub for HB 2049**.

On roll call, the vote was: Yeas 35, Nays 2, Present and Passing 1, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Haley, Steineger.

Present and Passing: Francisco.

Absent or Not Voting: Donovan, McGinn.

The Conference Committee Report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote NO on **S Sub for HB 2049**. Once again I remain this Senate's most consistent civil libertarian on the issue of the failed war on relatively benign drugs. Quit wasting time and money; attempting, and unsuccessfully, to prevent people's flights of fancy. Regulate them; tax them; put them behind the counters of drug stores but stop criminalizing substances less toxic to the human body than abused prescription drugs, tobacco and alcohol. Explore medicinal values to authentic and manufactured substances. Let us quit driving these people to inhaling more dangerous substances that can not be made illegal and find after these hard, very expensive failed lessons of history, at long last, realistic drug policies that work with public health and safety. —DAVID HALEY

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2104** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate committee amendments, as follows:

On page 3, in line 8, by striking "a current" and inserting "or has been a"; also in line 8, after "facility," by inserting "within the last six months";

And your committee on conference recommends the adoption of this report.

VICKI SCHMIDT

PETE BRUNGARDT

LAURA KELLY

Conferees on part of Senate

PAT COLLOTON

LANCE KINZER

MELODY McCRAY-MILLER

Conferees on part of House

Senator Owens moved the Senate adopt the Conference Committee Report on **HB 2104**.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, McGinn.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to HB 2105 submits the following report:

The Senate recedes from all of its amendments to the bill;

And your committee on conference recommends the adoption of this report.

THOMAS C. OWENS

JEFF KING

DAVID HALEY

Conferees on part of Senate

MIKE KIEGERL

BILL WOLF

SEAN GATEWOOD

Conferees on part of House

Senator Owens moved the Senate adopt the Conference Committee Report on **HB 2105**.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, McGinn.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2119**, submits the following report:

The House accedes to all Senate amendments to the bill and your committee on conference further agrees to amend this bill as printed with Senate Committee of the Whole amendments as follows:

On page 2, in line 36, by striking "the" where it appears for the first time;

On page 3, in line 1, after "response" by inserting "service"; in line 4 by striking "service" and inserting "services"; by striking all in lines 16 through 43;

By striking all in pages 4 through 22;

On page 23, by striking all in lines 1 through 14 and inserting:

"Sec. 3. K.S.A. 8-305 is hereby repealed";

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all after "concerning"; by striking all in lines 4 through 9 and inserting "political subdivisions; pertaining to accident response service fees; pertaining to marking of motor vehicles; amending K.S.A. 8-305 and repealing the existing section.";

And your committee on conference recommends the adoption of this report.

RUTH TEICHMAN

TY MASTERSON

ALLEN C. SCHMIDT

Conferees on part of Senate

STEVE HUEBERT

JOE SEIWERT

ANN E. MAH

Conferees on part of House

Senator Teichman moved the Senate adopt the Conference Committee Report on **HB 2119**.

On roll call, the vote was: Yeas 35, Nays 3, Present and Passing 0, Absent or Not Voting 2.

Yeas: Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Abrams, Ostmeyer, Pyle.

Absent or Not Voting: Donovan, McGinn.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2172** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate committee amendments, as follows:

On page 1, by striking all in lines 7 through 36;

By striking all on pages 2 and 3;

On page 4 by striking all in lines 1 through 28, and inserting:

"New Section 1. The junction of United States highway 24 and K-7 highway in Wyandotte county is hereby designated as the Representative Margaret Long interchange. The secretary of transportation shall place signs along the highway right-of-way at proper intervals to indicate that the junction of United States highway 24 and K-7 highway is the Representative Margaret Long interchange, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs and an additional 50% of the initial cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.

New Sec. 2. If the state of Missouri designates a portion of interstate highway 70 as the Truman/Eisenhower Presidential highway, or something substantially similar, then the portion of interstate highway 70 from the Missouri state line to the junction with highway K-15 shall be designated the Eisenhower/Truman Presidential highway. The secretary of transportation shall place signs along the highway right-of-way at proper intervals to indicate that the highway is the Eisenhower/Truman Presidential highway, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs and an additional 50% of the cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.

Sec. 3. K.S.A. 68-1009 is hereby amended to read as follows: 68-1009. (a) The portion of United States highway No. 40 traversing this state where it crosses the Missouri-Kansas border on the east to the point where it leaves the state on the west at the Kansas-Colorado line, be and it is hereby designated as the official east-west Blue Star memorial highway in the state of Kansas.

(b) *If the state of Missouri designates a portion of interstate highway 70 as the Truman/Eisenhower Presidential highway, or something substantially similar, then the portion of United States highway No. 40 from where it crosses the Missouri-Kansas border, to the west city limits of Topeka, and then from the junction of highway K-15 with United States highway No. 40, then west on United States highway No. 40 to the point where it leaves the state at the Kansas-Colorado line, shall be designated as the official east-west Blue Star memorial highway in the state of Kansas.*

Sec. 4. K.S.A. 68-1009 is hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 1, by striking all after "ACT"; by striking all in lines 2 and 3; in line 4, by striking all before the period; and inserting " concerning roads and highways; designating the Margaret Long interchange; Eisenhower/Truman Presidential highway; amending K.S.A. 68-1009 and repealing the existing section";

And your committee on conference recommends the adoption of this report.

DWAYNE UMBARGER

BOB MARSHALL

KELLY KULTALA

Conferees on part of Senate

GARY K. HAYZLETT

WILLIE PRESCOTT

VINCENT WETTA

Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on **HB 2172**.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, McGinn.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2192** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee amendments as follows:

On page 1, after line 7, by inserting:

"Section 1. K.S.A. 2010 Supp. 8-116a is hereby amended to read as follows: 8-116a. (a) Except as provided in K.S.A. 8-170, and amendments thereto, when an application is made for a vehicle which has been assembled, reconstructed, reconstituted or restored from one or more vehicles, or the proper identification number of a vehicle is in doubt, the procedure in this section shall be followed. The owner of the vehicle shall request the Kansas highway patrol to check the vehicle and the highway patrol shall within a reasonable period of time perform such vehicle check. At the time of such check the owner shall supply the highway patrol with information concerning the history of the various parts of the vehicle. Such information shall be supplied by affidavit of the owner, if so requested by the highway patrol. If the highway patrol is satisfied that the vehicle contains no stolen parts, it shall assign an existing or new identification number to the vehicle and direct the places and manner in which the identification number is to be located and affixed or implanted. A charge of ~~\$10~~ \$15 per hour or part thereof, with a minimum charge of ~~\$10~~ \$15, and on and after July 1, 2012, a charge of \$20 per hour or part thereof, with a minimum charge of \$20, shall be made to the owner of a vehicle requesting check under this subsection, and such charge shall be paid prior to the check under this section. When a check has been made under subsection (b), not more than 60 days prior to a check of the same vehicle identification number, requested by the owner of the vehicle to obtain a regular certificate of title in lieu of a nonhighway certificate of title or to obtain a rebuilt salvage title in lieu of a salvage title, no charge shall be made for such second check.

(b) Any person making application for any original Kansas title for a used vehicle which, at the time of making application, is titled in another jurisdiction, as a condition precedent to obtaining any Kansas title, shall have such vehicle checked by the Kansas highway patrol for verification that the vehicle identification number shown on the foreign title is genuine and agrees with the identification number on the vehicle. Checks under this section may include inspection for possible violation of K.S.A. 21-3757, and amendments thereto, or other evidence of possible fraud. The verification shall be made upon forms prescribed by the division of vehicles which shall contain such information as the secretary of revenue shall require by rules and regulations. A charge of ~~\$10~~ \$15 per hour or part thereof, with a minimum charge of ~~\$10~~ \$15, and on and after July 1, 2012, a charge of \$20 per hour or part thereof, with a minimum charge of \$20, shall be made for checks under this subsection. When a vehicle is registered in another state, but is financed by a Kansas financial institution and is repossessed in another state and such vehicle will not be returned to Kansas, the check required by this subsection ~~(b)~~ shall not be required to obtain a valid Kansas title or registration.

(c) As used in this act, "identification number" or "vehicle identification number" means an identifying number, serial number, engine number, transmission number or other distinguishing number or mark, placed on a vehicle, engine, transmission or other essential part by its manufacturer or by authority of the division of vehicles or the Kansas highway patrol or in accordance with the laws of another state or country.

(d) The checks made under subsection (b) may be made by:

- (1) A designee of the superintendent of the Kansas highway patrol; or
- (2) an employee of a new vehicle dealer, as defined in subsection (b) of K.S.A. 8-2401, and amendments thereto, for the purposes provided for in subsection (f). For checks made by a designee or new vehicle dealer, ~~\$1~~ 10% of each charge shall be remitted to the Kansas highway patrol and the balance of such charges shall be retained

by such designee *or new vehicle dealer. If the designee is a city or county law enforcement agency, then the balance shall be paid to the law enforcement agency that conducted the inspection.* When a check is made under either subsection (a) or (b) by personnel of the Kansas highway patrol ~~or when a check is made under subsection (b) by an employee of a new vehicle dealer,~~ the entire amount of the charge therefor shall be paid to the highway patrol.

(e) There is hereby created the vehicle identification number fee fund. The Kansas highway patrol shall remit all moneys received by the Kansas highway patrol from fees collected under subsection (d) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the vehicle identification number fee fund. All expenditures from the vehicle identification number fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the superintendent of the Kansas highway patrol or by a person or persons designated by the superintendent.

(f) An employee of a new vehicle dealer, who has received initial training and certification from the highway patrol, and has met continuing certification requirements, in accordance with rules and regulations adopted by the superintendent of the highway patrol, may provide the checks under subsection (b), in accordance with rules and regulations adopted by the superintendent of the highway patrol, on motor vehicles *that a new vehicle dealer purchases through a manufacturer's sponsored auction or on motor vehicles* repurchased or reacquired by a manufacturer, distributor or financing subsidiary of such manufacturer and which are purchased by the new vehicle dealer. At any time, after a hearing in accordance with the provisions of the Kansas administrative procedure act, the superintendent of the highway patrol may revoke, suspend, decline to renew or decline to issue certification for failure to comply with the provisions of this subsection, including any rules and regulations.

Sec. 2. K.S.A. 2010 Supp. 8-173 is hereby amended to read as follows: 8-173. (a) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall not be accepted unless the person making such application shall exhibit:

(1) A receipt showing that such person has paid all personal property taxes levied against such person for the preceding year, including taxes upon such vehicle, except that if such application is made before May 11, such receipt need show payment of only one-half the preceding year's tax; or

(2) evidence that such vehicle was assessed for taxation purposes by a state agency, or was assessed as stock in trade of a merchant or manufacturer or was exempt from taxation under the laws of this state.

(b) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated shall not be accepted if the records of the county treasurer show that the applicant is delinquent and owes personal property taxes levied against the applicant for any preceding year.

(c) An *original* application for registration ~~or renewal of registration~~ of a motor vehicle shall not be accepted until the applicant signs a certification, provided by the director of motor vehicles, certifying that the applicant has and will maintain, during the period of registration, the required insurance, self-insurance or other financial security

required pursuant to K.S.A. 40-3104, and amendments thereto.

(d) An application for registration or renewal of registration of a vehicle shall not be accepted if the applicant is unable to provide proof of the insurance, self-insurance or other financial security required by article 31 of chapter 40 of the Kansas Statutes Annotated. Proof of insurance shall be verified by examination of the insurance card or other documentation issued by an insurance company, a certificate of self-insurance issued by the commissioner, a binder of insurance, a certificate of insurance, a motor carrier identification number issued by the state corporation commission, proof of insurance for vehicles covered under a fleet policy, a commercial policy covering more than one vehicle or a policy of insurance required by K.S.A. 40-3104, and amendments thereto, and for vehicles used as part of a drivers education program, a dealership contract and a copy of a motor vehicle liability insurance policy issued to a school district or accredited nonpublic school. Examination of a photocopy or facsimile of any of these documents shall suffice for verification of registration or renewal. Proof of insurance may also be verified on-line or electronically and the commissioner of insurance may require, by duly adopted rules and regulations, any motor vehicle liability insurance company authorized to do business in this state to provide verification of insurance in that manner. Any motor vehicle liability insurance company which is providing verification of insurance on-line or electronically on the day preceding the effective date of this act may continue to do so in the same manner and shall be deemed to be in compliance with this section.";

On page 5, after line 21, by inserting:

"Sec. 5. K.S.A. 2010 Supp. 8-1558 is hereby amended to read as follows: 8-1558.

(a) Except as provided in subsection (b) and except when a special hazard exists that requires lower speed for compliance with K.S.A. 8-1557, and amendments thereto, the limits specified in this subsection or established as authorized by law shall be maximum lawful speeds, and no person shall operate a vehicle at a speed in excess of such maximum limits:

- (1) In any urban district, 30 miles per hour;
- (2) on any separated multilane highway, as designated and posted by the secretary of transportation, ~~70~~ 75 miles per hour;
- (3) on any county or township highway, 55 miles per hour; and]
- (4) on all other highways, 65 miles per hour.

(b) No person shall drive a school bus to or from school, or interschool or intraschool functions or activities, at a speed in excess of the maximum speed limits provided in subsection (a), except that the board of education of any school district may establish by board policy lower maximum speed limits for the operation of such district's school buses. The provisions of this subsection relating to school buses shall apply to buses used for the transportation of students enrolled in community colleges or area vocational schools, when such buses are transporting students to or from school, or functions or activities.

(c) The maximum speed limits in this section may be altered as authorized in K.S.A. 8-1559 and 8-1560, and amendments thereto.

Sec. 6. K.S.A. 2010 Supp. 8-1560c is hereby amended to read as follows: 8-1560c.

(a) Any conviction or forfeiture of bail or bond for violating a maximum posted or authorized speed limit of 30 miles per hour or more but not exceeding 54 miles per hour on any highway, by not more than six miles per hour, shall not be construed as a

moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.

(b) Any conviction or forfeiture of bail or bond for violating the maximum posted or authorized speed limit of 55 miles per hour or more but not exceeding ~~70~~ 75 miles per hour on any highway, by not more than 10 miles per hour, shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.

Sec. 7. K.S.A. 2010 Supp. 8-1560d is hereby amended to read as follows: 8-1560d. Convictions for violating a maximum posted speed limit of 55 miles per hour or more but not exceeding ~~70~~ 75 miles per hour, by not more than 10 miles per hour in excess of such maximum speed limit, or a maximum posted speed limit of 30 miles per hour or more but not exceeding 54 miles per hour, by not more than six miles per hour in excess of such maximum speed limit, shall not be reported by the division and shall not be considered by any insurance company in determining the rate charged for any automobile liability insurance policy or whether to cancel any such policy under the provisions of subsection (4)(c)(7) of K.S.A. 40-277, and amendments thereto.

Sec. 8. K.S.A. 8-2204 is hereby amended to read as follows: 8-2204. This act shall be known and may be cited as the uniform act regulating traffic on highways. The uniform act regulating traffic on highways includes K.S.A. 8-1560a through 8-1560d; all sections located in articles 10, ~~and~~ 14 through 22 ~~and~~ 25 of chapter 8 of *the* Kansas Statutes Annotated; K.S.A. 8-1,129, 8-1,130a, 8-1428a, 8-1742a, 8-2118 and K.S.A. 8-1599, and amendments thereto.

Sec. 9. K.S.A. 2010 Supp. 8-2503 is hereby amended to read as follows: 8-2503. (a) Except as provided in ~~K.S.A. 8-1344 and 8-1345, and amendments thereto, and in subsection (b) or (e)~~ subsection (b);:

(1) Each occupant of a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208, who is 18 years of age or older, shall have a safety belt properly fastened about such person's body at all times when the passenger car is in motion ~~;~~ *and*

~~(b)~~(2) each occupant of a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208, who is at least 14 years of age but less than 18 years of age, shall have a safety belt properly fastened about such person's body at all times when the passenger car is in motion.

~~(e)~~(b) This section does not apply to:

(1) An occupant of a passenger car who possesses a written statement from a licensed physician that such person is unable for medical reasons to wear a safety belt system;

(2) carriers of United States mail while actually engaged in delivery and collection of mail along their specified routes; *or*

(3) newspaper delivery persons while actually engaged in delivery of newspapers along their specified routes; ~~or.~~

~~(4) an occupant of a passenger car required to be protected by a safety restraining system under the child passenger safety act.~~

~~(d)~~(c) The secretary of transportation shall initiate an educational program designed to encourage compliance with the safety belt usage provisions of this act.

~~(e)~~(d) The secretary shall evaluate the effectiveness of this act and shall include a report of its findings in the annual evaluation report on its highway safety plan that it submits under 23 U.S.C. § 402.

~~(f)~~(e) Law enforcement officers shall not stop drivers for violations of subsection

(a)(1) by a back seat occupant in the absence of another violation of law. A citation for violation of subsection (a)(1) by a back seat occupant shall not be issued without citing the violation that initially caused the officer to effect the enforcement stop.

Sec. 10. K.S.A. 2010 Supp. 8-2504 is hereby amended to read as follows: 8-2504.

(a) (1) ~~From and after the effective date of this act and prior to June 30, 2010, a law enforcement officer shall issue a warning citation to anyone violating subsection (a) of K.S.A. 8-2503, and amendments thereto;~~

~~(2) from and after June 30, 2010, until July 1, 2011, Persons violating subsection (a)(1) of K.S.A. 8-2503, and amendments thereto, shall be fined \$5 including and no court costs;~~

~~(3) and, from and after July 1, 2011, persons violating subsection (a)(1) of K.S.A. 8-2503, and amendments thereto, shall be fined \$10 including and no court costs; and~~

~~(4)(2) persons violating subsection (b)(a)(2) of K.S.A. 8-2503, and amendments thereto, shall be fined \$60 including and no court costs.~~

(b) No court shall report violation of this act to the department of revenue.

(c) Evidence of failure of any person to use a safety belt shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(d) The provisions of this section shall be applicable and uniform throughout the state and no city, county, subdivision or local authority shall enact or enforce any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of this section. "

And by renumbering the remaining sections accordingly;

Also on page 5, in line 23, after "8-1516" by inserting "and K.S.A. 2010 Supp. 8-116a, 8-173, 8-1558, 8-1560c, 8-1560d, 8-2204, 8-2503 and 8-2504";

On page 1, in the title, in line 1, by striking all after "ACT"; by striking all in line 2; in line 3, by striking all before "amending" and inserting "concerning vehicles; relating to the regulation and registration thereof;"; in line 4, after "8-1516" by inserting " and K.S.A. 2010 Supp. 8-116a, 8-173, 8-1558, 8-1560c, 8-1560d, 8-2204, 8-2503 and 8-2504";

And your committee on conference recommends the adoption of this report.

DWAYNE UMBARGER

BOB MARSHALL

KELLY KULTALA

Conferees on part of Senate

GARY K. HAYZLETT

WILLIE PRESCOTT

VINCENT WETTA

Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on **HB 2192**.

On roll call, the vote was: Yeas 23, Nays 14, Present and Passing 1, Absent or Not Voting 2.

Yeas: Apple, Bruce, Brungardt, Francisco, Haley, Holland, Huntington, Kelsey, Kultala, Love, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Petersen, Pilcher-Cook, Schmidt A, Steineger, Taddiken, Teichman, Umbarger.

Nays: Abrams, Emler, Faust-Goudeau, Hensley, Kelly, King, Lynn, Owens, Pyle, Reitz, Schmidt V, Schodorf, Vratil, Wagle.

Present and Passing: Longbine.

Absent or Not Voting: Donovan, McGinn.

The Conference Committee Report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: **HB 2192** contains two VIN Inspection fees. I cannot support the bill that doubles the fee for an ineffective program. A NO vote would be considered self-saving for someone in my industry. I pass on **HB 2192**. — JEFF LONGBINE

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2271** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee amendments, as follows:

On page 2, in line 40, before "To", by inserting "(a)"; by striking all on lines 42 and 43; on page 3, by striking all in line 1 and inserting the following:

"(1) Enter any property in the state, except private dwellings, in order to:

(A) Inspect;

(B) monitor;

(C) place and inspect monitoring equipment; and

(D) obtain samples; and";

Also on page 3, in line 2 by striking "(b)" and inserting "(2)"; in line 5, by striking "(c)" and inserting "(b)";

On page 4, in line 26, by striking "\$80" and inserting "\$30";

On page 5, in line 12, by striking "\$60" and inserting "\$80";

And your committee on conference recommends the adoption of this report.

MARK TADDIKEN

RUTH TEICHMAN

MARCI FRANCISCO

Conferees on part of Senate

LARRY POWELL

DAN KERSCHEN

JERRY D. WILLIAMS

Conferees on part of House

Senator Taddiken moved the Senate adopt the Conference Committee Report on **HB 2271**.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, McGinn.
The Conference Committee Report was adopted.

ORIGINAL MOTION

On motion of Senator Owens, the Senate acceded to the request of the House for a conference on **HB 2312**.

The President appointed Senators Owens, King and Haley as conferees on the part of the Senate.

REPORT ON ENGROSSED BILLS

Sub SB 234 reported correctly engrossed March 31, 2011.

REPORT ON ENROLLED BILLS

SB 12, SB 24, SB 38; H Sub SB 101; SB 122 reported correctly enrolled, properly signed and presented to the governor on April 1, 2011.

SR 1843, SR 1844, SR 1845 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 1, 2011.

COMMITTEE OF THE WHOLE

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

On motion of Senator V. Schmidt the following report was adopted.

Recommended.

S Sub for HB 2080 be amended by adoption of the committee amendments, and the bill be passed as amended.

Sub HB 2135 be amended by adoption of the committee amendments, be further amended by motion of Senator Holland, on page 28, after line 9, by inserting the following:

"New Sec. 6. On or before January 31 of each year, the secretary shall transmit annually to the standing committee of commerce on the senate and the standing committee on commerce and economic development of the house of representatives or any successor committee, a report, based on information received or developed by the department of labor concerning misclassification of employees and any investigations related thereto. Such report shall contain the following information for the preceding calendar year:

- (a) The number of investigations initiated;
- (b) the number of investigations which were closed:
 - (1) With no assessment being made;
 - (2) with assessment being made which includes the following information:
 - (A) An estimate of the amount of unreported payroll;
 - (B) an estimate of the unpaid taxes or taxes which have not been withheld on such unreported payroll amount;
 - (C) the amount of unpaid contributions or other amounts required to be paid under the employment security act related to such unreported payroll amount;
 - (D) the total amount of interest assessed;
 - (E) the total amount of penalties assessed; and

- (F) the number of employers found to be employing undocumented workers;
 - (c) the total amounts collected for each of the categories listed in subsection (b).";
- And by renumbering the remaining sections accordingly

Senator Apple further amended **Sub HB 2135** on page 24, line 23, by striking "severity level 10, nonperson felony" and inserting "class A nonperson misdemeanor"

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

On roll call, the vote was: Yeas 26, Nays 10, Present and Passing 0, Absent or Not Voting 4.

Yeas: Abrams, Apple, Bruce, Brungardt, Huntington, Kelsey, King, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Pilcher-Cook, Pyle, Reitz, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Petersen, Schmidt A, Schmidt V.

Absent or Not Voting: Donovan, Emler, McGinn, Steineger.

The motion carried and the amendment was adopted and **Sub HB 2135** be passed as further amended.

S Sub for HB 2267 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Apple, on page 2, in line 17, by striking "any" and inserting "an"; in line 18, before "common" by inserting "a";

On page 3, in line 4, by striking "any" and inserting "an association for a"; in line 21, by striking "any" and inserting "a" and **S Sub for HB 2267** be passed as amended.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Emler an emergency was declared by a 2/3 constitutional majority, and **S Sub for HB 2080**, **HB 2135**, **S Sub for HB 2267** were advanced to Final Action and roll call.

S Sub for HB 2080, AN ACT concerning elections and elected officials; amending K.S.A. 25-321, 25-1215, 25-1218, 25-4004, 25-4153, 25-4502 and 25-4503 and K.S.A. 2010 Supp. 25-205, 25-1216, 25-4119f, 25-4145, 25-4156, 25-4501, 46-265, and 46-269 and repealing the existing sections.

On roll call, the vote was: Yeas 37, Nays 1, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Haley.

Absent or Not Voting: Donovan, McGinn.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR PRESIDENT: Although the majority of **S Sub for HB 2080** is good policy which I support and every other Senator does too, as the nominee twice for Kansas Secretary of State, I promised all voting Kansans that I would support our democracy and vote to fund our presidential preference primary. Every four years, this Legislature suggests the ability to hold a free and open statewide election to select a nominee for

U.S. President costs too much! Give me a break. Tell that to the Egyptians. Tell that to the millions of people around the world who too (eerily similar to voting Kansans every four years) are being denied the opportunity to vote in a public secure election for the candidate of their choice.

I again declare that our Legislature's priorities in this regard are misguided. We all got here by a vote of a majority. As a Democrat, I already know who I intend to see renominated and reelected President in 2012. Most Democrats do not see a need to fund the 2012 Primary. But with all the choices Republicans might have, whether good or bad, one wonders why democracy loving elected Kansas Republicans wouldn't want to give their constituents the right to choose in 2012. — DAVID HALEY

Sub HB 2135, AN ACT concerning certain employees; relating to misclassification of employees to avoid tax withholding, contributions and reporting requirements; amending K.S.A. 2010 Supp. 44-703, 44-766 and 79-3234 and repealing the existing sections.

On roll call, the vote was: Yeas 36, Nays 2, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Haley, Hensley, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Francisco, Holland.

Absent or Not Voting: Donovan, McGinn.

The substitute bill passed, as amended.

S Sub for HB 2267, AN ACT concerning homeowners associations; amending K.S.A. 2010 Supp. 58-4608, 58-4610 and 58-4618 and repealing the existing sections.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, McGinn.

The substitute bill passed, as amended.

On motion of Senator Emler, the Senate recessed until 2:00 p.m.

AFTERNOON SESSION

The Senate met pursuant to recess with President Morris in the chair.

MOTION TO CONCUR OR NONCUR

On motion of Senator Owens the Senate nonconcurred in the House amendments to **H Sub for SB 36** and requested a conference committee be appointed.

The President appointed Senators Owens, King and Haley as a conference committee on the part of the Senate.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **Sub HB 2134** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments as follows:

On page 3, in line 24, after "(a)" by inserting "(1)"; in line 26, by striking "(1)" and inserting "(A)"; in line 27, by striking "(2)" and inserting "(B)"; in line 30, by striking "(3)" and inserting "(C)"; following line 31 by inserting the following:

"(D) the employee's reckless violation of their employer's workplace safety rules or regulations; or

(E) the employee's voluntary participation in fighting or horseplay with a co-employee for any reason, work related or otherwise.

(2) Subparagraphs (B) and (C) of paragraph (1) of subsection (a) shall not apply when it was reasonable under the totality of the circumstances to not use such equipment, or if the employer approved the work engaged in at the time of an accident or injury to be performed without such equipment.";

On page 9, in line 19, by striking "unincorporate" and inserting "unincorporated";

On page 11, in line 17, by striking "or events";

On page 12, in line 29, by striking "or repetitive trauma" and inserting ", repetitive trauma or occupational disease"; in line 31, by striking "''"; in line 32, by striking "''";

On page 13, in line 29, before "of" by inserting "owned or under the exclusive control"; in line 32, before "and" by inserting "connected with the nature of the employment that is not a risk or hazard to which the general public is exposed";

On page 14, in line 22, by striking "The "prevailing factor" is defined as" and inserting ""Prevailing" as it relates to the term "factor" means"; in line 29, before the period by inserting "unless a higher burden of proof is specifically required by this act";

On page 16, in line 7, by striking "medical" and inserting "health care"; in line 20, before "injury" by inserting "accident or "; in line 30, before "injury" by inserting "accident or ";

On page 24, in line 29, before "injury" by inserting "whole body";

On page 26, in line 4, after "impairment" by inserting "("work disability)";

On page 27, in line 39, by striking all after "for"; by striking all in line 40; in line 41, by striking all before "shall" and inserting "whole body injury under this section";

On page 28, in line 9, by striking all after "of"; in line 10, by striking all before the period and inserting:

"functional impairment pursuant to subsection (a)(2)(B) or the percentage of work disability pursuant to subsection (a)(2)(C), whichever is applicable.

(3) When an injured worker is eligible to receive an award of work disability, compensation is limited to the value of the work disability as calculated above. In no case shall functional impairment and work disability be awarded together.";

On page 32, in line 17, by striking "medical" and inserting "health care"; in line 19, by striking "medical" and inserting "health care";

On page 40, in line 40, after "(a)" by inserting "(1)";

On page 41, by striking all in lines 21 and 22 and inserting "by the earliest of the following dates:

(A) 30 calendar days from the date of accident or the date of injury by repetitive

trauma;

(B) if the employee is working for the employer against whom benefits are being sought and such employee seeks medical treatment for any injury by accident or repetitive trauma, 20 calendar days from the date such medical treatment is sought; or

(C) if the employee no longer works for the employer against whom benefits are being sought, 20 calendar days after the employee's last day of actual work for the employer.";

Also on page 41, in line 24, by striking "(1)" and inserting "(2)"; in line 30 by striking "(2)" and inserting "(3)"; in line 34 by striking "(3)" and inserting "(4)"; in line 43, by striking "30-day" and inserting "applicable"; also in line 43, after "in" by inserting "paragraph (1) of";

On page 50, in line 3, by striking "injury" and inserting "accident";

On page 53, following line 25, by inserting the following:

"(d) The certified short hand reporter's fee shall be taxed to the division of workers compensation if a fee is incurred and no record is taken.";

On page 60, in line 12 by striking "and 44-552" and inserting ", 44-552 and 44-596"; in line 13, after "after" by inserting "May 15, 2011, and";

On page 1, in the title, in line 7, before the period by inserting "and K.S.A. 2010 Supp. 44-596";

And your committee on conference recommends the adoption of this report

SUSAN WAGLE

Julia Lynn

G. THOMAS HOLLAND

Conferees on part of Senate

ANTHONY BROWN

GENE SUELLENTROP

MIKE SLATTERY

Conferees on part of House

Senator Wagle moved the Senate adopt the Conference Committee Report on **Sub HB 2134**.

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

Yeas: Abrams, Apple, Bruce, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Brungardt, Donovan, McGinn.

The Conference Committee Report was adopted.

On motion of Senator Emler and pursuant to **HCR 5021** the Senate adjourned until 10:00 a.m., Wednesday, April 27, 2011.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

