

Journal of the Senate

FIFTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, March 27, 2003—10:00 a.m.

The Senate was called to order by President Dave Kerr.

The roll was called with thirty-nine senators present.

Senator Feleciano was excused.

President Kerr introduced as guest chaplain, Father Michael Mullen, Pastor, Saint Patrick Catholic Church, Kansas City, Kansas, who delivered the invocation:

Father, we dedicate this day to you. Your wisdom inspires all that we do. It is your love that we strive to share. In your goodness guide the men and women of this Kansas Senate Assembly. Confirm them in their service as leaders and role models for the people of our State. Lead them, Lord, that their reflection, debate, and decisions may further the common good of all the people of Kansas. May the good work of this Senate protect the lives of all the people from conception to natural death. May the laws of our community further the well-being of the poor, strengthen our families, incorporate immigrants with gratitude into our society, and enrich the lives of those who are most in need. Bless and reward, Lord, the men and women of this Senate for the leadership they give to our State.

Today we pray for all our youth, especially for the seventh grade of St. Patrick School, Kansas City, Kansas and other youth here this morning, that they may aspire to be civic leaders in our towns, cities, counties, and state. Open their eyes to see how their talents might serve the community. Give them hearts full of love to care and work for the betterment of human life among all our citizens.

Finally we ask you to protect especially this day all who are in Iraq. Keep them safe, console their families, lead them in the ways of justice and peace. Guide us so that our world community will reflect the love and unity which you, God, share in yourself, Father, Son and Holy Spirit. This prayer we offer in the name of God, Most Holy. Amen

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Ways and Means: **HB 2444**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2267, HB 2426**.

Passage of **SB 11, SB 57, SB 70, SB 240**.

Adoption of **HCR 5016, HCR 5017, HCR 5019, HCR 5021**.

Also, adoption of **SCR 1609, SCR 1610**.

Also, passage of **SB 27**, as amended by **House Substitute for SB 27; SB 55**, as amended, **SB 61**, as amended, **SB 64**, as amended, **SB 71**, as amended; **Substitute SB 83**, as amended, **SB 103**, as amended, **SB 119**, as amended, **SB 120**, as amended, **SB 131**, as amended, **SB 159**, as amended, **SB 178**, as amended.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2267, HB 2426; HCR 5016, HCR 5017, HCR 5019, HCR 5021 were thereupon introduced and read by title.

ORIGINAL MOTION

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2015**.

The President appointed Senators Vratil, Allen and Goodwin as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2068**.

The President appointed Senators Vratil, Pugh and Goodwin as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2088**.

The President appointed Senators Vratil, Pugh and Goodwin as conferees on the part of the Senate.

On motion of Senator Wagle, the Senate acceded to the request of the House for a conference on **HB 2155**.

The President appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

On motion of Senator Wagle, the Senate acceded to the request of the House for a conference on **HB 2161**.

The President appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 263, An act making and concerning appropriations for the fiscal years ending June 30, 2003, June 30, 2004, and June 30, 2005, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2-223 and K.S.A. 2002 Supp. 55-193, 75-2319, 76-775, 79-2959, as amended by section 21 of 2003 House Bill No. 2026, 79-2964, as amended by section 22 of 2003 House Bill No. 2026, 79-3425i, as amended by section 23 of 2003 House Bill No. 2026, 79-34,147, 79-4804 and 82a-953a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 33, Nays 6, Present and Passing 0, Absent or Not Voting 1.

Yeas: Adkins, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Jackson, Jordan, Kerr, Lee, Morris, O'Connor, Oleen, Salmans, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Wagle.

Nays: Allen, Huelskamp, Lyon, Pugh, Schmidt, Vratil.

Absent or Not Voting: Feleciano.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **SB 263**, and by doing so, I am voting for progress, not perfection. It is important we set forward our priorities for the next fiscal year: no cuts to K-12 education or the Regents; no prison closures; restoration of many vital social services; and a 1% pay increase for our hard working state employees. Even in these lean budget times, we have found a way to maintain all of those priorities. That being said, I also know this budget, in its current form, is not based on available funds, and I know there are several areas where government still needs to change its ways. I know there is still heavy lifting to be done, and a revenue package to be agreed to, and we will be balancing these cuts by stretching dollars we have to make ends meet. Our new Governor has asked for patience and a chance to make our government more efficient, and I think we owe her more than

73 days to enact her changes. That is why I say we are making progress towards completing our mission, as imperfect as that progress may be.—JIM BARONE

Senators Downey, Gilstrap, Goodwin, Hensley and Lee request the record to show they concur with the “Explanation of Vote” offered by Senator Barone on **SB 263**.

MR. PRESIDENT: I vote “yes” on **SB 263**, the Senate’s budget bill for FY04. This budget is a reasonable attempt at making the most of a difficult situation. However, we are still in need of curbing our appetite for spending by finding additional areas to cut. Attempts to cut are met with much resistance which reveals not only our appetite but our addiction to spending.—KARIN BROWNLEE

Senator Harrington requests the record to show she concurs with the “Explanation of Vote” offered by Senator Brownlee on **SB 263**.

MR. PRESIDENT: I vote yes on **SB 263**. Although I am very concerned that we are still not addressing the very necessary need to cut spending and live within our means, the Wagle amendment which deals with pornography problems at Kansas University must be passed to the next step in the process and eventually to the Governor for signature.—KAY O’CONNOR

MR. PRESIDENT: I vote AYE on **SB 263**. Our action today represents the first step in a long and circuitous process as we work to craft a responsible budget. This measure clearly identifies and maintains critical priorities which I support.

SB 263 embodies a level of funding that does not cut K-12 public education. Additionally, we have rewarded hardworking state employees with a 1% cost of living adjustment. We have also maintained funding for our public universities. The Legislature has long been committed to higher education in Kansas, and this budget fulfills that commitment. We also are pleased to see public safety protected by avoiding prison closures, despite these difficult financial times. We have also been able to restore funding to those social services which affect great numbers of elderly and disabled Kansans.

While **SB 263** accomplishes many positive things, it is not perfect. However, we believe it is a solid initial work product as we labor over the difficult choices yet to come. These are extraordinary times, and we must work together to find responsible solutions to our challenges. As the budget process continues we will have many opportunities to seek common ground with our colleagues in the House of Representatives. Kansans are counting on us to make the tough choices and to set priorities. **SB 263** starts us down the road to a responsible budget that protects the weakest among us while being frugal with taxpayer dollars.—LANA OLEEN

Senators Barnett, Emler, Kerr, Morris, Schodorf, Teichman and Umbarger request the record to show they concur with the “Explanation of Vote” offered by Senator Oleen on **SB 263**.

HB 2003, An act concerning certain rural water districts; providing procedures for acquisition of such districts’ water supply and distribution systems by certain municipalities, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O’Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Feleciano.

The bill passed, as amended.

HB 2032, An act concerning real property; relating to eminent domain; concerning relocation costs; amending K.S.A. 26-506, 26-508 and 58-3502 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley,

Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Huelskamp.

Absent or Not Voting: Feleciano.

The bill passed, as amended.

Sub HB 2073, An act relating to the division of vehicles; concerning driver's licenses and identification cards; selective service registration requirements, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Feleciano.

The substitute bill passed.

HB 2122, An act concerning abandoned property; relating to the rehabilitation thereof; amending K.S.A. 12-1750, 12-1756a, 12-1756b and 12-1756e and repealing the existing sections, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Feleciano.

The bill passed, as amended.

HB 2131, An act concerning certain thermal efficiency standards; amending K.S.A. 66-1227 and 66-1228 and repealing the existing sections, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Feleciano.

The bill passed, as amended.

HB 2135, An act relating to roads and highways; concerning county roads; making certain designations; amending K.S.A. 68-124 and 68-1029 and repealing the existing sections; also repealing K.S.A. 68-137, 68-138, 68-151b, 68-151c, 68-151d, 68-151e, 68-151k, 68-151l, 68-159, 68-160 and 68-166, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Feleciano.

The bill passed, as amended.

HB 2214, An act concerning elections; relating to handling ballots after canvass; establishing write-in boards; amending K.S.A. 25-3008 and repealing the existing section, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley,

Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Feleciano.

The bill passed.

HB 2220, An act amending the uniform commercial drivers' license act; amending K.S.A. 8-2,128, 8-2,132, 8-2,133, 8-2,135 and 8-2,142 and repealing the existing sections, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Feleciano.

The bill passed.

COMMITTEE OF THE WHOLE

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

The morning session recommended:

HB 2171 be passed.

SB 243, SB 252; HB 2009, Sub HB 2036, HB 2374 be amended by adoption of the committee amendments, and the bills be passed as amended.

HB 2288, HB 2332 be passed over and retain a place on the calendar.

The Committee rose and reported progress (see Committee of the Whole, afternoon session).

On motion of Senator Oleen, the Senate recessed until 1:30 p.m.

AFTERNOON SESSION

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

CHANGE OF CONFERENCE

The President announced the appointment of Senator Barone as a member of the Conference Committee on **SB 6** to replace Senator Feleciano.

MESSAGE FROM THE HOUSE

Announcing the appointment of Representative Nichols to replace Representative Shriver as a conferee on **SB 6**.

The House announces the appointment of Representative Schwartz to replace Representative Shultz as a conferee on **SB 43**.

COMMITTEE OF THE WHOLE

The Senate returned to Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Brungardt in the chair.

On motion of Senator Brungardt the report for the morning and the following afternoon session was adopted:

Recommended **HB 2090, HB 2132, HB 2192, HB 2314, HB 2353** be passed.

The Committee recommended **HB 2120** be passed.

Senator Lee moved to amend the **HB 2120** on page 1, by striking all in lines 13 through 22; in line 23, by striking "Sec. 2." and inserting "Section 1.";

By renumbering section 3 as section 2;

In the title, in line 9, by striking “regulating traffic” and inserting “repealing K.S.A 8-1573”; also in line 9, by striking the last semicolon; in line 10, by striking all preceding the period

The motion failed and the amendment was rejected.

The Committee recommended **Sub HB 2197** be passed.

Senator Haley moved to amend **Sub HB 2197** as amended by House Committee of the Whole, on page 6, after line 41, by inserting the following:

“Sec. 12. K.S.A. 2002 Supp. 21-4310 is hereby amended to read as follows: 21-4310.

(a) Cruelty to animals is:

(1) Intentionally killing, ~~injuring~~, maiming, torturing, *burning* or mutilating or *causing serious physical injury* to any animal;

(2) abandoning or leaving any animal in any place without making provisions for its proper care;

(3) having physical custody of any animal and failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal; ~~or~~

(4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;

(5) *causing any physical injury other than serious physical injury to any animal.*

(b) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) bona fide experiments carried on by commonly recognized research facilities;

(3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated;

(4) rodeo practices accepted by the rodeo cowboys’ association;

(5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;

(6) ~~with respect to farm animals~~; normal or accepted practices of animal husbandry;

(7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;

(8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

or

(9) laying an equine down for medical or identification purposes.

(c) As used in this section, “equine” means a horse, pony, mule, jenny, donkey or hinny.

(d) (1) *Cruelty to animals as described in subsection (a)(1) is a severity level 9, non-person felony.*

(2) *Cruelty to animals as described in subsections (a)(2), (a)(3), (a)(4) and (a)(5) is a class A nonperson misdemeanor.”;*

And by renumbering sections accordingly;

Also on page 6, in line 43, after “Supp.” by inserting “21-4310 and”;

On page 1, in the title, in line 10, by striking “persons with disabilities” and inserting “animals”; also in line 10, after “to” by inserting “pets,”; in line 13, after “Supp.” by inserting “21-4310 and”

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

On roll call, the vote was: Yeas 14, Nays 22, Present and Passing 2, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Bunten, Emler, Gilstrap, Gooch, Haley, Hensley, Jackson, Lee, Schodorf, Steineger.

Nays: Brownlee, Brungardt, Buhler, Clark, Donovan, Goodwin, Huelskamp, Jordan, Kerr, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Present and Passing: Corbin, Harrington.

Absent or Not Voting: Downey, Feleciano.

The motion failed and the amendment was rejected.

The committee report on **HB 2308** recommending a **S Sub for HB 2308** be adopted, and the substitute bill be passed.

SCR 1612 be adopted.

The following amendment offered by Senator Barnett to **SCR 1612** was rejected: on page 1, in line 21, by striking "13" and inserting "11"; in line 25, by striking "Three members" and inserting "One member";

On page 2, in line 24, by striking "a thirteen-member" and inserting "an eleven-member"; in line 27, by striking "three members" and inserting "one member"

HB 2121, HB 2130, HB 2234, HB 2369 be amended by adoption of the committee amendments, and the bills be passed as amended.

HB 2288 be amended by adoption of the committee report in Committee of the Whole, March 26, 2003.

Senator Huelskamp moved to amend the bill as amended by Senate Committee, on page 6, in line 1, after "voting" by inserting "unless such applicant is a HAVA voter who has previously submitted the last four digits of such applicant's social security number, such applicant's current driver's license number or a form of identification specified in paragraph (2) of subsection (b) of section 8, and amendments thereto, with such person's voter registration application;";

On page 7, after line 40, by inserting:

"(1) For the purposes of this section, "HAVA voter" shall have the meaning ascribed to it in section 8 and amendments thereto.";

On page 9, in line 3, by striking "A" and inserting "(1) Except as provided in paragraph (2), a"; in line 5, by striking "(1)" and inserting "(A)"; in line 6, by striking "(2)" and inserting "(B)"; by striking all in lines 7 through 11; in line 12, by striking "107-252;"; in line 13, by striking "(4)" and inserting "(C)"; following line 13, by inserting:

"(2) If the person desiring to vote is a HAVA voter, such person shall provide to the election board:

(A) The voter's current and valid driver's license or nondriver's identification card; or

(B) other valid identification as defined by rules and regulations adopted by the secretary of state which meet or exceed the requirements of the Help America Vote Act of 2002, Public Law 107-252.";

Also on page 9, in line 18, by striking all following "(2)"; in line 19, by striking "(3)"; in line 20, by striking "(4)" and inserting "(3)"; in line 24, by striking "(5)" and inserting "(4)"; in line 27, by striking "(6)" and inserting "(5)"; in line 29, by striking "the" and inserting "a HAVA"; in line 30, by striking "the" where it appears for the second time and inserting "such HAVA"; by striking all in lines 32 through 43;

On page 10, by striking lines 1 through 11; after line 28, by inserting:

"(h) For the purposes of this section, "HAVA voter" means an individual who registers by mail to vote in a county and such individual:

(1) Has not previously voted in an election for federal office in this state; or

(2) has not previously voted in an election for federal office in such county whenever this state does not have a computerized list that complies with the requirements of subsection (a) of section 303 of the Help America Vote Act of 2002, public law 107-252."

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

On roll call, the vote was: Yeas 17, Nays 20, Present and Passing 0, Absent or Not Voting 3.

Yeas: Barone, Buhler, Clark, Downey, Gilstrap, Gooch, Goodwin, Haley, Hensley, Huelskamp, Lee, Lyon, Pugh, Schodorf, Steineger, Taddiken, Tyson.

Nays: Adkins, Allen, Brownlee, Brungardt, Bunten, Corbin, Emler, Harrington, Jackson, Jordan, Kerr, Morris, O'Connor, Oleen, Salmans, Schmidt, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Barnett, Donovan, Feleciano.

The motion failed and the amendment was rejected.

Senator Haley moved to amend **HB 2288** as amended by Senate Committee, on page 12, after line 30, by inserting:

“New Sec. 12. (a) A person shall forfeit the right to vote in a federal, state or municipal election upon conviction of a felony and confinement to a federal or state correctional institution in the United States.

(b) A person who has been convicted of a felony and confined to a federal or state correctional institution in the United States shall be restored the right to vote in a federal, state or municipal election when such person has been discharged from confinement and completed the term of such person’s authorized sentence.

(c) When a person is restored the right to vote, the department of corrections shall provide to such person a document certifying that such person is eligible to vote and instructions on how to register to vote. The department of corrections shall develop such certification document in conjunction with the secretary of state.

(d) On or before the 15th day of each calendar month, the department of corrections shall transmit to the secretary of state a list of the name, birth date and address of each person who has been convicted in any state or federal court of a felony and who has completed such person’s authorized sentence.

Sec. 13. K.S.A. 2002 Supp. 21-4615 is hereby amended to read as follows: 21-4615. (1) A person who has been convicted in any state or federal court of a felony shall, by reason of such conviction, be ineligible to hold any public office under the laws of the state of Kansas, or to register as a voter or to vote in any election held under the laws of the state of Kansas or to serve as a juror in any civil or criminal case.

(2) The ineligibilities imposed by this section shall attach upon conviction and shall continue until such person has completed the terms of the authorized sentence.

(3) *Upon completion of the authorized sentence, the ineligibilities of this section shall no longer apply to such person. In addition, such person shall be restored the right to vote in any federal, state, municipal or other election in this state.*

(4) *The department of corrections shall furnish to the secretary of state monthly a list of persons who have completed the terms of such person’s authorized sentence. The list required by this section shall comply with the requirements of section 12 and amendments thereto.*

(5) The ineligibilities imposed upon a convicted person by this section shall be in addition to such other penalties as may be provided by law.”;

By renumbering sections accordingly;

Also on page 12, in line 32, after “Supp.” by inserting “21-4615.”;

In the title, in line 16, before “amending” by inserting “relating to conditions for restoration to convicted felons of the right to vote.”; in line 17, after “Supp.” by inserting “21-4615.”

The motion failed and the amendment was rejected.

The Committee recommended **HB 2288** be passed as amended.

SCR 1607 be amended by adoption of the committee amendments, and the concurrent resolution be adopted as amended.

HB 2332 be amended by motion of Senator Wagle as amended by House Committee, on page 13, following line 39, by inserting the following:

“Sec. 3. K.S.A. 44-757 is hereby amended to read as follows: 44-757. *Shared work unemployment compensation program.* (a) As used in this section:

(1) “Affected unit” means a specified department, shift or other unit of two or more employees that is designated by an employer to participate in a shared work plan.

(2) “Fringe benefit” means health insurance, a retirement benefit received under a pension plan, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that is provided by an employer.

(3) “Fund” has the meaning ascribed thereto by subsection (k) of K.S.A. 44-703 and amendments thereto.

(4) "Normal weekly hours of work" means the lesser of 40 hours or the average obtained by dividing the total number of hours worked per week during the preceding twelve-week period by the number 12.

(5) "Participating employee" means an employee who works a reduced number of hours under a shared work plan.

(6) "Participating employer" means an employer who has a shared work plan in effect.

(7) "Secretary" means the secretary of human resources or the secretary's designee.

(8) "Shared work benefit" means an unemployment compensation benefit that is payable to an individual in an affected unit because the individual works reduced hours under an approved shared work plan.

(9) "Shared work plan" means a program for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work.

(10) "Shared work unemployment compensation program" means a program designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment compensation benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages.

(b) The secretary shall establish a voluntary shared work unemployment compensation program as provided by this section. The secretary may adopt rules and regulations and establish procedures necessary to administer the shared work unemployment compensation program.

(c) An employer who wishes to participate in the shared work unemployment compensation program must submit a written shared work plan to the secretary for the secretary's approval. As a condition for approval, a participating employer must agree to furnish the secretary with reports relating to the operation of the shared work plan as requested by the secretary. The employer shall monitor and evaluate the operation of the established shared work plan as requested by the secretary and shall report the findings to the secretary.

(d) The secretary may approve a shared work plan if:

(1) The shared work plan applies to and identifies a specific affected unit;

(2) the employees in the affected unit are identified by name and social security number;

(3) the shared work plan reduces the normal weekly hours of work for an employee in the affected unit by not less than 20% and not more than 40%;

(4) the shared work plan applies to at least 10% of the employees in the affected unit;

(5) the shared work plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit;

(6) the employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of temporary layoffs that would affect at least 10% of the employees in the affected unit and that would result in an equivalent reduction in work hours;

(7) the employer has filed all reports required to be filed under the employment security law for all past and current periods and has paid all contributions, benefit cost payments, or if a reimbursing employer has made all payments in lieu of contributions due for all past and current periods; and

(8) (A) a contributing employer must be eligible for a rate computation under subsection (a)(2) of K.S.A. 44-710a and amendments thereto and is not a negative account employer as defined by subsection (d) of K.S.A. 44-710a and amendments thereto; (B) a rated governmental employer must be eligible for a rate computation under subsection (g) of K.S.A. 44-710d and amendments thereto.

(e) If any of the employees who participate in a shared work plan under this section are covered by a collective bargaining agreement, the shared work plan must be approved in writing by the collective bargaining agent.

(f) A shared work plan may not be implemented to subsidize seasonal employers during the off-season or to subsidize employers who have traditionally used part-time employees.

(g) The secretary shall approve or deny a shared work plan no later than the 30th day after the day the shared work plan is received by the secretary. The secretary shall approve

or deny a shared work plan in writing. If the secretary denies a shared work plan, the secretary shall notify the employer of the reasons for the denial.

(h) A shared work plan is effective on the date it is approved by the secretary, except for good cause a shared work plan may be effective at any time within a period of 14 days prior to the date such plan is approved by the secretary. The shared work plan expires on the last day of the 12th full calendar month after the effective date of the shared work plan.

(i) An employer may modify a shared work plan created under this section to meet changed conditions if the modification conforms to the basic provisions of the shared work plan as approved by the secretary. The employer must report the changes made to the shared work plan in writing to the secretary before implementing the changes. If the original shared work plan is substantially modified, the secretary shall reevaluate the shared work plan and may approve the modified shared work plan if it meets the requirements for approval under subsection (d). The approval of a modified shared work plan does not affect the expiration date originally set for that shared work plan. If substantial modifications cause the shared work plan to fail to meet the requirements for approval, the secretary shall deny approval to the modifications as provided by subsection (g).

(j) Notwithstanding any other provisions of the employment security law, an individual is unemployed and is eligible for shared work benefits in any week in which the individual, as an employee in an affected unit, works for less than the individual's normal weekly hours of work in accordance with an approved shared work plan in effect for that week. The secretary may not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of the employment security law that relates to availability for work, active search for work or refusal to apply for or accept work with an employer other than the participating employer.

(k) An individual is eligible to receive shared work benefits with respect to any week in which the secretary finds that:

(1) The individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week;

(2) the individual is able to work and is available for additional hours of work or full-time work with the participating employer;

(3) the individual's normal weekly hours of work have been reduced by at least 20% but not more than 40%, with a corresponding reduction in wages; and

(4) the individual's normal weekly hours of work and wages have been reduced as described in paragraph (3) of this subsection (k) for a waiting period of one week which occurs within the period the shared work plan is in effect, which period includes the week for which the individual is claiming shared work benefits.

(l) The secretary shall pay an individual who is eligible for shared work benefits under this section a weekly shared work benefit amount equal to the individual's regular weekly benefit amount for a period of total unemployment multiplied by the nearest full percentage of reduction of the individual's hours as set forth in the employer's shared work plan. If the shared benefit amount is not a multiple of \$1, the secretary shall reduce the amount to the next lowest multiple of \$1. All shared work benefits under this section shall be payable from the fund.

(m) The secretary may not pay an individual shared work benefits for any week in which the individual performs paid work for the participating employer in excess of the reduced hours established under the shared work plan.

(n) An individual may not receive shared work benefits and regular unemployment compensation benefits in an amount that exceeds the maximum total amount of benefits payable to that individual in a benefit year as provided by subsection (f) of K.S.A. 44-704 and amendments thereto.

(o) An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year is an exhaustee under K.S.A. 44-704a and 44-704b and amendments thereto and is entitled to receive extended benefits under such statutes if the individual is otherwise eligible under such statutes.

(p) The secretary may terminate a shared work plan for good cause if the secretary determines that the shared work plan is not being executed according to the terms and intent of the shared work unemployment compensation program.

(q) Notwithstanding any other provisions of this section, an individual shall not be eligible to receive shared work benefits for more than 26 calendar weeks during the twelve-month period of the shared work plan, *except that two weeks of additional benefits shall be payable to claimants who exhaust regular benefits and any benefits under any other federal or state extended benefits program during the period July 1, 2003 through June 30, 2004.* No week shall be counted as a week for which an individual is eligible for shared work benefits for the purposes of this section unless the week occurs within the twelve-month period of the shared work plan.

(r) No shared work benefit payment shall be made under any shared work plan or this section for any week which commences before April 1, 1989.

(s) This section shall be construed as part of the employment security law.

Sec. 4. K.S.A. 2002 Supp. 44-710 is hereby amended to read as follows: 44-710. (a) *Payment.* Contributions shall accrue and become payable by each contributing employer for each calendar year in which the contributing employer is subject to the employment security law with respect to wages paid for employment. Such contributions shall become due and be paid by each contributing employer to the secretary for the employment security fund in accordance with such rules and regulations as the secretary may adopt and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ. In the payment of any contributions, a fractional part of \$.01 shall be disregarded unless it amounts to \$.005 or more, in which case it shall be increased to \$.01. Should contributions for any calendar quarter be less than \$1, no payment shall be required.

(b) *Rates and base of contributions.* (1) Except as provided in paragraph (2) of this subsection, each contributing employer shall pay contributions on wages paid by the contributing employer during each calendar year with respect to employment as provided in K.S.A. 44-710a and amendments thereto.

(2) (A) If the congress of the United States either amends or repeals the Wagner-Peyser act, the federal unemployment tax act, the federal social security act, or subtitle C of chapter 23 of the federal internal revenue code of 1986, or any act or acts supplemental to or in lieu thereof, or any part or parts of any such law, or if any such law, or any part or parts thereof, are held invalid with the effect that appropriations of funds by congress and grants thereof to the state of Kansas for the payment of costs of administration of the employment security law are no longer available for such purposes, or (B) if employers in Kansas subject to the payment of tax under the federal unemployment tax act are granted full credit against such tax for contributions or taxes paid to the secretary of human resources, then, and in either such case, beginning with the year in which the unavailability of federal appropriations and grants for such purpose occurs or in which such change in liability for payment of such federal tax occurs and for each year thereafter, the rate of contributions of each contributing employer shall be equal to the total of .5% and the rate of contributions as determined for such contributing employer under K.S.A. 44-710a and amendments thereto. The amount of contributions which each contributing employer becomes liable to pay under this paragraph (2) over the amount of contributions which such contributing employer would be otherwise liable to pay shall be credited to the employment security administration fund to be disbursed and paid out under the same conditions and for the same purposes as other moneys are authorized to be paid from the employment security administration fund, except that, if the secretary determines that as of the first day of January of any year there is an excess in the employment security administration fund over the amount required to be disbursed during such year, an amount equal to such excess as determined by the secretary shall be transferred to the employment security fund.

(c) *Charging of benefit payments.* (1) The secretary shall maintain a separate account for each contributing employer, and shall credit the contributing employer's account with all the contributions paid on the contributing employer's own behalf. Nothing in the employment security law shall be construed to grant any employer or individuals in such employer's service prior claims or rights to the amounts paid by such employer into the employment security fund either on such employer's own behalf or on behalf of such individuals. Benefits paid shall be charged against the accounts of each base period employer in the proportion that the base period wages paid to an eligible individual by each such employer bears to the total wages in the base period. Benefits shall be charged to contrib-

uting employers' accounts and rated governmental employers' accounts upon the basis of benefits paid during each twelve-month period ending on the computation date.

(2) (A) Benefits paid in benefit years established by valid new claims shall not be charged to the account of a contributing employer or rated governmental employer who is a base period employer if the examiner finds that claimant was separated from the claimant's most recent employment with such employer under any of the following conditions: (i) Discharged for misconduct or gross misconduct connected with the individual's work; or (ii) leaving work voluntarily without good cause attributable to the claimant's work or the employer.

(B) Where base period wage credits of a contributing employer or rated governmental employer represent part-time employment and the claimant continues in that part-time employment with that employer during the period for which benefits are paid, then that employer's account shall not be charged with any part of the benefits paid if the employer provides the secretary with information as required by rules and regulations. For the purposes of this subsection (c)(2)(B), "part-time employment" means any employment when an individual works concurrently for two or more employers and also works less than full-time for at least one of those employers because the individual's services are not required for the customary, scheduled full-time hours prevailing at the work place or the individual does not customarily work the regularly scheduled full-time hours due to personal choice or circumstances.

(C) No contributing employer or rated governmental employer's account shall be charged with any extended benefits paid in accordance with the employment security law, except for weeks of unemployment beginning after December 31, 1978, all contributing governmental employers and governmental rated employers shall be charged an amount equal to all extended benefits paid.

(D) *No contributing employer, rated governmental employer or reimbursing employer's account shall be charged for any additional benefits paid during the period July 1, 2003 through June 30, 2004.*

~~(E)~~ (E) No contributing employer or rated governmental employer's account will be charged for benefits paid a claimant while pursuing an approved training course as defined in subsection (s) of K.S.A. 44-703 and amendments thereto.

~~(F)~~ (F) No contributing employer or rated governmental employer's account shall be charged with respect to the benefits paid to any individual whose base period wages include wages for services not covered by the employment security law prior to January 1, 1978, to the extent that the employment security fund is reimbursed for such benefits pursuant to section 121 of public law 94-566 (90 Stat. 2673).

~~(G)~~ (G) With respect to weeks of unemployment beginning after December 31, 1977, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this subsection (c)(2)(F), the term "previously uncovered services" means services which were not covered employment, at any time during the one-year period ending December 31, 1975, except to the extent that assistance under title II of the federal emergency jobs and unemployment assistance act of 1974 was paid on the basis of such services, and which:

(i) Are agricultural labor as defined in subsection (w) of K.S.A. 44-703 and amendments thereto or domestic service as defined in subsection (aa) of K.S.A. 44-703 and amendments thereto, or

(ii) are services performed by an employee of this state or a political subdivision thereof, as provided in subsection (i)(3)(E) of K.S.A. 44-703 and amendments thereto, or

(iii) are services performed by an employee of a nonprofit educational institution which is not an institution of higher education.

(G) No contributing employer or rated governmental employer's account shall be charged with respect to their pro rata share of benefit charges if such charges are of \$100 or less.

(3) The examiner shall notify any base period employer whose account will be charged with benefits paid following the filing of a valid new claim and a determination by the examiner based on all information relating to the claim contained in the records of the division of employment. Such notice shall become final and benefits charged to the base

period employer's account in accordance with the claim unless within 10 calendar days from the date the notice was sent, the base period employer requests in writing that the examiner reconsider the determination and furnishes any required information in accordance with the secretary's rules and regulations. In a similar manner, a notice of an additional claim followed by the first payment of benefits with respect to the benefit year, filed by an individual during a benefit year after a period in such year during which such individual was employed, shall be given to any base period employer of the individual who has requested such a notice within 10 calendar days from the date the notice of the valid new claim was sent to such base period employer. For purposes of this subsection (c)(3), if the required information is not submitted or postmarked within a response time limit of 10 days after the base period employer notice was sent, the base period employer shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from protesting any subsequent decisions about the claim by the secretary, a referee, the board of review or any court, except that the base period employer's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. The examiner shall notify the employer of the reconsidered determination which shall be subject to appeal, or further reconsideration, in accordance with the provisions of K.S.A. 44-709 and amendments thereto.

(4) *Time, computation and extension.* In computing the period of time for a base period employer response or appeals under this section from the examiner's or the special examiner's determination or from the referee's decision, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

(d) *Pooled fund.* All contributions and payments in lieu of contributions and benefit cost payments to the employment security fund shall be pooled and available to pay benefits to any individual entitled thereto under the employment security law, regardless of the source of such contributions or payments in lieu of contributions or benefit cost payments.

(e) *Election to become reimbursing employer; payment in lieu of contributions.* (1) Any governmental entity, Indian tribes or tribal units, (subdivisions, subsidiaries or business enterprises wholly owned by such Indian tribes), for which services are performed as described in subsection (i)(3)(E) of K.S.A. 44-703 and amendments thereto or any nonprofit organization or group of nonprofit organizations described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income tax under section 501(a) of such code, that becomes subject to the employment security law may elect to become a reimbursing employer under this subsection (e)(1) and agree to pay the secretary for the employment security fund an amount equal to the amount of regular benefits and $\frac{1}{2}$ of the extended benefits paid that are attributable to service in the employ of such reimbursing employer, except that each reimbursing governmental employer, Indian tribes or tribal units shall pay an amount equal to the amount of regular benefits and extended benefits paid for weeks of unemployment beginning after December 31, 1978, for governmental employers and December 21, 2000, for Indian tribes or tribal units to individuals for weeks of unemployment which begin during the effective period of such election.

(A) Any employer identified in this subsection (e)(1) may elect to become a reimbursing employer for a period encompassing not less than four complete calendar years if such employer files with the secretary a written notice of such election within the thirty-day period immediately following January 1 of any calendar year or within the thirty-day period immediately following the date on which a determination of subjectivity to the employment security law is issued, whichever occurs later.

(B) Any employer which makes an election to become a reimbursing employer in accordance with subparagraph (A) of this subsection (e)(1) will continue to be liable for payments in lieu of contributions until such employer files with the secretary a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which such termination shall first be effective.

(C) Any employer identified in this subsection (e)(1) which has remained a contributing employer and has been paying contributions under the employment security law for a period subsequent to January 1, 1972, may change to a reimbursing employer by filing with the

secretary not later than 30 days prior to the beginning of any calendar year a written notice of election to become a reimbursing employer. Such election shall not be terminable by the employer for four complete calendar years.

(D) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after January 1 of the year such election is received.

(E) The secretary, in accordance with such rules and regulations as the secretary may adopt, shall notify each employer identified in subsection (e)(1) of any determination which the secretary may make of its status as an employer and of the effective date of any election which it makes to become a reimbursing employer and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review in accordance with the provisions of K.S.A. 44-710b and amendments thereto.

(2) *Reimbursement reports and payments.* Payments in lieu of contributions shall be made in accordance with the provisions of paragraph (A) of this subsection (e)(2) by all reimbursing employers except the state of Kansas. Each reimbursing employer shall report total wages paid during each calendar quarter by filing quarterly wage reports with the secretary which shall be filed by the last day of the month following the close of each calendar quarter. Wage reports are deemed filed as of the date they are placed in the United States mail.

(A) At the end of each calendar quarter, or at the end of any other period as determined by the secretary, the secretary shall bill each reimbursing employer, except the state of Kansas, (i) an amount to be paid which is equal to the full amount of regular benefits plus $\frac{1}{2}$ of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing employer; and (ii) for weeks of unemployment beginning after December 31, 1978, each reimbursing governmental employer and December 21, 2000, for Indian tribes or tribal units shall be certified an amount to be paid which is equal to the full amount of regular benefits and extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing governmental employer.

(B) Payment of any bill rendered under paragraph (A) of this subsection (e)(2) shall be made not later than 30 days after such bill was mailed to the last known address of the reimbursing employer, or otherwise was delivered to such reimbursing employer, unless there has been an application for review and redetermination in accordance with paragraph (D) of this subsection (e)(2).

(C) Payments made by any reimbursing employer under the provisions of this subsection (e)(2) shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of such employer.

(D) The amount due specified in any bill from the secretary shall be conclusive on the reimbursing employer, unless, not later than 15 days after the bill was mailed to the last known address of such employer, or was otherwise delivered to such employer, the reimbursing employer files an application for redetermination in accordance with K.S.A. 44-710b and amendments thereto.

(E) Past due payments of amounts certified by the secretary under this section shall be subject to the same interest, penalties and actions required by K.S.A. 44-717 and amendments thereto. (1) If any nonprofit organization or group of nonprofit organizations described in section 501(c)(3) of the federal internal revenue code of 1986 or governmental reimbursing employer is delinquent in making payments of amounts certified by the secretary under this section, the secretary may terminate such employer's election to make payments in lieu of contributions as of the beginning of the next calendar year and such termination shall be effective for such next calendar year and the calendar year thereafter so that the termination is effective for two complete calendar years. (2) Failure of the Indian tribe or tribal unit to make required payments, including assessment of interest and penalty within 90 days of receipt of the bill will cause the Indian tribe to lose the option to make payments in lieu of contributions as described pursuant to paragraph (e)(1) for the following tax year unless payment in full is received before contribution rates for the next tax year are calculated. (3) Any Indian tribe that loses the option to make payments in lieu of contri-

butions due to late payment or nonpayment, as described in paragraph (2), shall have such option reinstated, if after a period of one year, all contributions have been made on time and no contributions, payments in lieu of contributions for benefits paid, penalties or interest remain outstanding.

(F) Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalties, after all collection activities deemed necessary by the secretary have been exhausted, will cause services performed by such tribe to not be treated as employment for purposes of subsection (i)(3)(E) of K.S.A. 44-703 and amendments thereto. If an Indian tribe fails to make payments required under this section, including assessments of interest and penalties, within 90 days of a final notice of delinquency, the secretary shall immediately notify the United States internal revenue service and the United States department of labor. The secretary may determine that any Indian tribe that loses coverage pursuant to this paragraph may have services performed on behalf of such tribe again deemed "employment" if all contributions, payments in lieu of contributions, penalties and interest have been paid.

(G) In the discretion of the secretary, any employer who elects to become liable for payments in lieu of contributions and any nonprofit organization or group of nonprofit organizations described in section 501 (c)(3) of the federal internal revenue code of 1986 or governmental reimbursing employer or Indian tribe or tribal unit who is delinquent in filing reports or in making payments of amounts certified by the secretary under this section shall be required within 60 days after the effective date of such election, in the case of an eligible employer so electing, or after the date of notification to the delinquent employer under this subsection (e)(2)(G), in the case of a delinquent employer, to execute and file with the secretary a surety bond, except that the employer may elect, in lieu of a surety bond, to deposit with the secretary money or securities as approved by the secretary or to purchase and deliver to an escrow agent a certificate of deposit to guarantee payment. The amount of the bond, deposit or escrow agreement required by this subsection (e)(2)(G) shall not exceed 5.4% of the organization's taxable wages paid for employment by the eligible employer during the four calendar quarters immediately preceding the effective date of the election or the date of notification, in the case of a delinquent employer. If the employer did not pay wages in each of such four calendar quarters, the amount of the bond or deposit shall be as determined by the secretary. Upon the failure of an employer to comply with this subsection (e)(2)(G) within the time limits imposed or to maintain the required bond or deposit, the secretary may terminate the election of such eligible employer or delinquent employer, as the case may be, to make payments in lieu of contributions, and such termination shall be effective for the current and next calendar year.

(H) The state of Kansas shall make reimbursement payments quarterly at a fiscal year rate which shall be based upon: (i) The available balance in the state's reimbursing account as of December 31 of each calendar year; (ii) the historical unemployment experience of all covered state agencies during prior years; (iii) the estimate of total covered wages to be paid during the ensuing calendar year; (iv) the applicable fiscal year rate of the claims processing and auditing fee under K.S.A. 75-3798 and amendments thereto; and (v) actuarial and other information furnished to the secretary by the secretary of administration. In accordance with K.S.A. 75-3798 and amendments thereto, the claims processing and auditing fees charged to state agencies shall be deducted from the amounts collected for the reimbursement payments under this paragraph (H) prior to making the quarterly reimbursement payments for the state of Kansas. The fiscal year rate shall be expressed as a percentage of covered total wages and shall be the same for all covered state agencies. The fiscal year rate for each fiscal year will be certified in writing by the secretary to the secretary of administration on July 15 of each year and such certified rate shall become effective on the July 1 immediately following the date of certification. A detailed listing of benefit charges applicable to the state's reimbursing account shall be furnished quarterly by the secretary to the secretary of administration and the total amount of charges deducted from previous reimbursing payments made by the state. On January 1 of each year, if it is determined that benefit charges exceed the amount of prior reimbursing payments, an upward adjustment shall be made therefor in the fiscal year rate which will be certified on the ensuing July 15. If total payments exceed benefit charges, all or part of the excess may be refunded, at the

discretion of the secretary, from the fund or retained in the fund as part of the payments which may be required for the next fiscal year.

(3) *Allocation of benefit costs.* The reimbursing account of each reimbursing employer shall be charged the full amount of regular benefits and $\frac{1}{2}$ of the amount of extended benefits paid except that each reimbursing governmental employer's account shall be charged the full amount of regular benefits and extended benefits paid for weeks of unemployment beginning after December 31, 1978, to individuals whose entire base period wage credits are from such employer. When benefits received by an individual are based upon base period wage credits from more than one employer then the reimbursing employer's or reimbursing governmental employer's account shall be charged in the same ratio as base period wage credits from such employer bear to the individual's total base period wage credits. Notwithstanding any other provision of the employment security law, no reimbursing employer's or reimbursing governmental employer's account shall be charged for payments of extended benefits which are wholly reimbursed to the state by the federal government.

(A) *Proportionate allocation (when fewer than all reimbursing base period employers are liable).* If benefits paid to an individual are based on wages paid by one or more reimbursing employers and on wages paid by one or more contributing employers or rated governmental employers, the amount of benefits payable by each reimbursing employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bears to the total base period wages paid to the individual by all of such individual's base period employers.

(B) *Proportionate allocation (when all base period employers are reimbursing employers).* If benefits paid to an individual are based on wages paid by two or more reimbursing employers, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of such individual's base period employers.

(4) *Group accounts.* Two or more reimbursing employers may file a joint application to the secretary for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employment of such reimbursing employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection (e)(4). Upon approval of the application, the secretary shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the secretary receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than four years and thereafter such account shall remain in effect until terminated at the discretion of the secretary or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for service performed in the employ of all members of the group. The secretary shall adopt such rules and regulations as the secretary deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subsection (e)(4), for addition of new members to, and withdrawal of active members from such accounts, and for the determination of the amounts that are payable under this subsection (e)(4) by members of the group and the time and manner of such payments.

New Sec. 5. Two weeks of additional benefits shall be payable to claimants who exhaust regular benefits and any benefits under any other federal or state extended benefits program during the period July 1, 2003 through June 30, 2004. The benefit eligibility and disqualification provisions of K.S.A. 44-705 and 44-706, and amendments thereto, shall apply to the additional benefits program.”;

And by renumbering the remaining sections accordingly;

Also on page 13, in line 40, following “44-704” by inserting “and 44-757”; also in line 40, before “are” by inserting “and 44-710”;

On page 1, in the title, in line 11, following “44-704” by inserting “and 44-757”; also in line 11, following “44-706” by inserting “and 44-710”, and **HB 2332** be passed as amended.

SB 253 be amended by adoption of the committee amendments, be further amended by motion of Senator Morris as amended by Senate Committee, on page 31, following line 33, by inserting the following:

“(d) Subject to any restrictions imposed by appropriation acts, the Kansas commission on veterans affairs is authorized to pledge funds appropriated to it from the state institutions building fund or from any other source and transferred to a special revenue fund of the Kansas commission on veterans affairs specified by statute for the payment of debt service on revenue bonds issued for veterans’ home HVAC system replacement. Subject to any restrictions imposed by appropriation acts, the Kansas commission on veterans affairs is also authorized to pledge any funds appropriated to it from the state institutions building fund or from any other source and transferred to a special revenue fund of the Kansas commission on veterans affairs specified by statute as a priority for the payment of debt service on such revenue bonds. Neither the state or the Kansas commission on veterans affairs shall have the power to pledge the faith and credit or taxing power of the state of Kansas for such purposes and any payment by the Kansas commission on veterans affairs for such purposes shall be subject to and dependent on appropriations being made from time to time by the legislature. Any obligation of the Kansas commission on veterans affairs for payment of debt service on revenue bonds and any such revenue bonds issued for veterans’ home HVAC system replacement shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the constitution of the state of Kansas.” and **SB 253** be passed as further amended.

HB 2078 be amended by adoption of the committee amendments, be further amended by motion of Senator Lee as amended by Senate Committee, on page 5, in line 9, by striking “or counties” and inserting “and one adjacent county”; also in line 9, by striking “landowner” and inserting “landowner’s”

Senator Corbin moved to amend the **HB 2078** as amended by Senate Committee, on page 4, in line 37, by striking “(o)” and inserting “(n)”; in line 41, by striking “(p)” and inserting “(o)”;

On page 5, in line 5, by striking “non-”; in line 6, by striking all before “designation” and inserting “original”; also in line 6, by striking “only be”; in line 7, by striking “valid”; in line 8, by striking “within a des-”; by striking all in line 9; in line 10, by striking all before “be”; in line 20, by striking “(q)” and inserting “(p)”; in line 30, by striking “(r)” and inserting “(q)”; in line 36, by striking “(s)” and inserting “(r)”; in line 43, by striking “(t)” and inserting “(s)”;

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

On roll call, the vote was: Yeas 16, Nays 19, Present and Passing 3, Absent or Not Voting 2.

Yeas: Barone, Brownlee, Clark, Corbin, Donovan, Harrington, Huelskamp, Jackson, Jordan, Lyon, O’Connor, Pugh, Salmans, Taddiken, Tyson, Wagle.

Nays: Adkins, Allen, Barnett, Brungardt, Buhler, Bunten, Downey, Emler, Goodwin, Hensley, Kerr, Lee, Morris, Oleen, Schmidt, Schodorf, Teichman, Umbarger, Vratil.

Present and Passing: Gooch, Haley, Steineger.

Absent or Not Voting: Feleciano, Gilstrap.

The motion failed and the amendment was rejected.

HB 2078 be passed as further amended.

HB 2205 be amended by adoption of the committee amendments, be further amended by motion of Senator Goodwin as amended by Senate Committee, on page 6, in line 24, by striking “2002” and inserting “2001”, and **HB 2205** be passed as further amended.

HB 2231 be amended by adoption of the committee amendments, be further amended by motion of Senator Umbarger as amended by Senate Committee, on page 6, in line 28, before “the purpose”, by inserting “a period of not to exceed five years for”; in line 41, before “in”, by inserting “for a period not to exceed _____ years”;

On page 9, by striking all in lines 17 through 43;

On page 10, by striking all in lines 1 through 32 and inserting:

“Sec. 5. K.S.A. 72-8808 is hereby amended to read as follows: 72-8808. Whenever an initial resolution has been adopted under K.S.A. 72-8801, and amendments thereto, and such resolution specified a lesser mill rate than the statutorily prescribed mill rate or a lesser number of years than five, the board of education of the school district may adopt a second resolution under the same procedure as is provided in K.S.A. 72-8801, and amendments thereto, for the initial resolution and subject to the same conditions and for the same purposes as provided in K.S.A. 72-8801, and amendments thereto; ~~and. The board shall be authorized to make such additional tax levy as is specified in such second resolution for the remainder of the five years succeeding the adoption of the initial resolution. Any such second resolution shall be limited in amount as specified in K.S.A. 72-8801, and amendments thereto, less such amount as has been authorized in the initial resolution, and not to exceed the statutorily prescribed mill rate in any one year. In the event that The board of education of any school district which has adopted a resolution under K.S.A. 72-8801, and amendments thereto, may adopt subsequent resolutions adjusting the amount of the tax levy or the duration of such levy or addressing the uses of the moneys derived from a levy made pursuant to the subsequent resolution. If the board adopts a resolution pursuant to this section, the existing resolution shall remain in force and effect until the resolution adopted pursuant to this section becomes effective. If any such resolution is so adopted and the tax levy therein specified is approved under the conditions specified in K.S.A. 72-8801, and amendments thereto, the amount of bonds which may be issued under K.S.A. 72-8805, and amendments thereto, may be increased accordingly.~~”;

By renumbering sections 7, 8 and 9 as sections 6, 7 and 8, respectively;

Also on page 10, in line 42, by striking all after “72-8804,” and inserting “72-8808 and 72-8810”;

In the title, in line 16, by striking “72-8805,”; in line 17, by striking all after the second “repealing” and inserting “K.S.A. 72-6407a and 72-7108a”

Senator Umbarger further amended the bill as amended by Senate Committee, on page 8, in line 42, by striking “computers,”; and **HB 2231** be passed as further amended.

A motion by Senator Bunten to amend **HB 2231** failed and the following amendment was rejected: as amended by Senate Committee, on page 8, by striking all in lines 23 through 26;

On page 9, by striking all in lines 2 and 3; in line 5, by striking “par-”; in line 6, by striking all before “of” and inserting “paragraph (5)”

HB 2247 be amended by adoption of the committee amendments, be further amended by motion of Senator Tyson as amended by Senate Committee, on page 9, by striking all in lines 31 through 43;

By striking all on page 10;

On page 11, by striking all in lines 1 through 39 and inserting;

“Sec. 16. K.S.A. 65-3424 is hereby amended to read as follows: 65-3424. As used in K.S.A. 65-3424 through 65-3424i, and amendments thereto, unless the context otherwise requires:

(a) Terms have the meaning provided by K.S.A. 65-3402, and amendments thereto.

(b) “Abatement” means the processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.

(c) “Beneficial use” means the use or storage of waste tires in a way that:

(1) Creates an on-site economic benefit to the owner of the tires, *including, but not limited to, bumpers for boat docks or boats, playground equipment, silo covers, traffic control, feed bunks, water tanks, windbreaks constructed of baled tires or in a manner consistent with rules and regulations of the secretary, erosion control on the face of an earthen dam and stabilization of soil or sand blow-outs caused by wind; and*

(2) *as determined by the secretary, causes no adverse impacts to human health or the environment and complies with all applicable zoning requirements.*

(d) “Contaminated waste tire” means a tire which, as determined in accordance with rules and regulations adopted by the secretary, is recovered in a project to abate a waste tire accumulation and is so coated by or filled with dirt, mud, sludge or other natural substances as to render the tire substantially unsuitable for processing.

(e) ~~“Landfill” means a disposal site in which the method of disposing of solid waste is by landfill, dump or pit and which has a solid waste disposal area permit issued under K.S.A. 65-3401 et seq., and amendments thereto. “Illegal waste tire accumulation” means any waste tire pile containing more than 50 waste tires except the following:~~

~~(1) A waste tire accumulation on the premises of a facility which has been issued a permit by the secretary pursuant to K.S.A. 65-3407 or 65-3424b, and amendments thereto, and managed in accordance with the conditions of such permit; or~~

~~(2) a waste tire accumulation which is exempt from the waste tire collection center permit requirement pursuant to K.S.A. 65-3424b, and amendments thereto.~~

(f) “Mobile waste tire processor” means a person who processes waste tires at other than a fixed site.

(g) “Process” means: (1) Cut or otherwise alter whole waste tires so that they are no longer whole; or (2) bale for disposal or beneficial use.

(h) “Store” or “storage” means the placing of waste tires in a manner that does not constitute disposal of the waste tires. Storage includes the beneficial use of waste tires as silo covers and such other beneficial uses as the secretary determines do not create health or environmental risks.

(i) “Tire” means a continuous solid or pneumatic rubber covering used to encircle the wheel of a vehicle or aircraft, or an innertube of such a covering.

(j) “Tire retailer” means a person in the business of selling new or used replacement tires at retail.

(k) “Used tire” means a tire that: (1) Has been removed from a wheel following a period of use or remains on a wheel removed from a vehicle or aircraft following a period of use; and (2) has been determined to have value in accordance with rules and regulations established pursuant to subsection (e)(7) of K.S.A. 65-3424b, and amendments thereto.

(l) “Vehicle” has the meaning provided by K.S.A. 8-1485 and amendments thereto and includes implements of husbandry, as defined by K.S.A. 8-1427 and amendments thereto.

(m) “Waste tire” means a whole tire that: (1) Has been removed from a wheel following a period of use or remains on a wheel removed from a vehicle or aircraft following a period of use; and (2) is no longer suitable for its original intended purpose because of wear, damage or defect.

(n) “Waste tire collection center” means a site where used or waste tires are collected from the public or from customers of a business prior to being offered for recycling or disposal.

(o) “Waste tire processing facility” means a fixed site where equipment is used to process waste tires.

~~(p) “Waste tire site” means a site at which 1,000 or more whole waste tires are accumulated. “Waste tire site” does not include: (1) A site that is an integral part of a permitted waste tire processing facility; (2) an accumulation of tires on the premises of a tire retreading business, for use in the business; (3) an accumulation of tires on the premises of a business that, in the ordinary course of business, removes tires from motor vehicles; (4) an accumulation of tires on the premises of a tire retailer, accumulated in the normal course of the tire retailer’s business; or (5) an accumulation of tires which has a beneficial use approved by statute or rules and regulations adopted by the secretary, or by the secretary pursuant to statute or rules and regulations.~~

Sec. 17. K.S.A. 65-3424a is hereby amended to read as follows: 65-3424a. ~~(a) The owner or operator of any waste tire site shall provide the department with information concerning the site’s location and size and the approximate number of waste tires that are accumulated at the site.~~

~~(b) No person shall:~~

~~(1) (a) Maintain a waste tire site unless such person holds a valid permit issued for such site pursuant to K.S.A. 65-3424b and amendments thereto~~ *an illegal waste tire accumulation;*

~~(2) dispose of waste tires in the state unless the waste tires are disposed of for processing, or collected for processing, at a solid waste processing facility, a waste tire site which is an integral part of a waste tire processing facility, a waste tire processing facility or a waste tire collection center or are made available to: (A) The department of wildlife and parks for use by the department; or (B) a person engaged in a farming or ranching activity, including the~~

~~operation of a feedlot as defined by K.S.A. 47-1501, and amendments thereto, as long as the accumulation has a beneficial use to the person accumulating the tires and (i) the secretary determines that the use has no adverse environmental effects and (ii) the accumulation is in accordance with all applicable zoning regulations~~

~~(b) transfer ownership of waste tires to any person unless the recipient: (1) Has been issued a permit by the secretary pursuant to K.S.A. 65-3407, and amendments thereto, or K.S.A. 65-3424b, and amendments thereto; (2) intends to use the waste tires for a beneficial use; or (3) is a tire retailer who collects waste tires from the public or other tire retailers in the ordinary course of business;~~

~~(c) deposit waste tires in a landfill as a method of ultimate disposal, except that the secretary may authorize, by rules and regulations or by permits issued pursuant to K.S.A. 65-3407, and amendments thereto: (A) The final disposal of processed waste tires at permitted municipal solid waste landfills and permitted waste tire monofills; (B) the final disposal of contaminated whole, unprocessed waste tires at permitted municipal solid waste landfills and permitted waste tire monofills; (C) the use of waste tires in their original state as part of or supplemental to a proven and approved leachate collection system at a landfill; or (D) the use of waste tires which have been cut into two or more parts as daily cover material for a landfill; or (E) the final disposal of small numbers of whole, unprocessed waste tires in landfills if such tires are intermingled with other solid waste and retrieval of such tires would be hazardous; or~~

~~(d) receive money in exchange for waste tires unless: (A) The person holds a permit issued by the secretary pursuant to K.S.A. 65-3407 or 65-3424b, and amendments thereto; or (B) the person is a tire retailer who collects waste tires from the public or from other tire retailers in the ordinary course of business.~~

Sec. 18. K.S.A. 65-3424b is hereby amended to read as follows: 65-3424b. (a) The secretary shall establish a system of permits for mobile waste tire processors ~~and~~ waste tire processing facilities, ~~and permits for~~ waste tire transporters and *waste tire* collection centers. Such permits shall be issued for a period of one year and shall require an application fee established by the secretary in an amount not exceeding \$250 per year.

(b) The secretary shall adopt rules and regulations establishing standards for mobile waste tire processors, waste tire processing facilities ~~and associated waste tire sites~~, waste tire collection centers and waste tire transporters. Such standards shall include a requirement that the permittee file with the secretary a bond or other financial assurance in an amount determined by the secretary to be sufficient to pay any costs which may be incurred by the state to process any waste tires or dispose of any waste tires or processed waste tires if the permittee ceases business or fails to comply with this act.

(c) Any person who contracts or arranges with another person to collect or transport waste tires for storage, processing or disposal shall so contract or arrange only with a person holding a permit from the secretary. Any person contracting or arranging with a person, permitted by the secretary, to collect or transport waste tires for storage, processing or disposal, transfers ownership of those waste tires to the permitted person and the person contracting or arranging with the person holding such permit to collect or transport such tires shall be released from liability therefor. Any person contracting or arranging with any person, ~~permitted by the secretary~~, for the collection, transportation, storage, processing ~~or~~ disposal ~~or beneficial use~~ of such tires shall maintain a record of such transaction for a period of not less than ~~five~~ *three* years following the date of the transfer of such tires. *Record-keeping requirements for beneficial use shall not apply when tire retailers allow customers to retain their old tires at the time of sale.*

(d) *The owner or operator of each site that contains a waste tire, used tire or new tire accumulation of any size must control mosquito breeding and other disease vectors.*

(e) No person shall:

~~(1) own or operate a waste tire processing facility or waste tire collection center or act as a mobile waste tire processor or waste tire transporter unless such person holds a valid permit issued therefor pursuant to subsection (a); or~~

~~(2) own or operate a waste tire processing facility or waste tire collection center or act as a mobile waste tire processor or waste tire transporter except in compliance with the standards established by the secretary pursuant to subsection (b);~~

~~(c) The provisions of subsection (d)(1) shall not apply to, except that:~~

(1) A tire retreading business where fewer than ~~1,000~~ 1,500 waste tires are kept on the business premises *may operate a waste tire collection center on the premises;*

(2) a business that, in the ordinary course of business, removes tires from motor vehicles ~~if~~ where fewer than 1,500 of these tires are kept on the business premises *may operate a waste tire collection center or a waste tire processing facility or both on the premises;*

(3) a retail tire-selling business ~~which is serving as a waste tire collection center if~~ where fewer than 1,500 waste tires are kept on the business premises *may operate a waste tire collection center or a waste tire processing facility or both on the premises;*

(4) the department of wildlife and parks *may perform one or more of the following to facilitate a beneficial use of waste tires:* (A) Operate a waste tire collection center on the premises of any state park, state wildlife area, or state fishing lake; (B) operate a waste tire processing facility on the premises of any state park, state wildlife area, or state fishing lake; or (C) act as a waste tire transporter to transport waste tires to any state park, state wildlife area, or state fishing lake;

(5) a person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 47-1501, and amendments thereto, ~~as long as the accumulation has a beneficial use~~ *may perform one or more of the following to facilitate a beneficial use of waste tires:* (A) Operate an on-site waste tire collection center; (B) operate an on-site waste tire processing facility; or (C) act as a waste tire transporter to transport waste tires to the farm, ranch or the feedlot;

~~(6) a waste tire collection center where fewer than 1,500 used tires are kept on the premises;~~

(6) *a watershed district may perform one or more of the following to facilitate a beneficial use of waste tires:* (A) Operate a waste tire collection center on the premises of a watershed district project or work of improvement; (B) operate a waste tire processing facility on the district's property; or (C) act as a waste tire transporter to transport waste tires to the district's property;

(7) ~~a waste tire collection center where~~ a person *may operate a waste tire collection center if:* (A) Fewer than 1,500 used tires are kept on the premises; or (B) 1,500 or more used tires are kept on the premises, if the owner demonstrates through sales and inventory records that such tires have value, as established in accordance with standards adopted by rules and regulations of the secretary;

(8) local units of government ~~operating~~ *managing waste tires at* solid waste processing facilities ~~and~~ or solid waste disposal areas permitted by the secretary under the authority of K.S.A. 65-3407, and amendments thereto *may perform one or more of the following in accordance with the conditions of the solid waste permit:* (A) Operate a waste tire collection center on the premises of the permitted facility; (B) operate a waste tire processing facility on the premises of the permitted facility; (C) act as a waste tire transporter to transport waste tires to the permitted facility; or (D) act as a mobile waste tire processor;

(9) a person ~~transporting~~ *may act as a waste tire transporter to transport:* (A) Waste tires mixed with other municipal solid waste; (B) fewer than five waste tires for lawful disposal; (C) waste tires generated by the business, farming activities of the person or the person's employer; ~~or~~ (D) waste tires for a beneficial use approved by statute ~~or~~ rules and regulations, or ~~adopted~~ by the secretary (E) *waste tires from an illegal waste tire accumulation to a person who has been issued a permit by the secretary pursuant to K.S.A. 65-3407 or 65-3424b, and amendments thereto, provided approval has been obtained from the secretary;* or (F) five to 50 waste tires for lawful disposal, provided the transportation act is a one time occurrence to abate a legal accumulation of waste tires; or

(10) ~~a business engaged in processing, for resource recovery purposes, only waste tires generated by the business~~ *a tire retailer that in the ordinary course of business also serves as a tire wholesaler to other tire retailers may act as a waste tire transporter to transport waste tires from those retailers back to a central location owned or operated by the wholesaler for consolidation and final disposal or recycling.*

(f) All fees collected by the secretary pursuant to this section shall be remitted 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 waste tire management fund.

Sec. 19. K.S.A. 65-3424g is hereby amended to read as follows: 65-3424g. (a) There is hereby established in the state treasury the waste tire management fund.

(b) Money from the following sources shall be credited to the waste tire management fund:

(1) Revenue collected from the excise tax by K.S.A. 65-3424d and amendments thereto;

(2) permit application and renewal fees provided for by K.S.A. 65-3424b and amendments thereto;

(3) interest provided for by subsection (e);

(4) additional sources of funding such as reimbursements and appropriations intended to be used for the purposes of the fund;

(5) any recoveries from abatement and enforcement actions provided for by K.S.A. 65-3424k and amendments thereto; and

(6) any other moneys provided by law.

(c) Moneys in the waste tire management fund shall be used only for the purpose of:

(1) Paying compensation and other expenses of employing personnel to carry out the duties of the secretary pursuant to K.S.A. 65-3424 through 65-3424h, and amendments thereto, but not more than \$250,000 or 36%, whichever is less, of the moneys credited to the fund during the preceding fiscal year;

(2) ~~action by the department before July 1, 2003, to abate waste tires accumulated prior to July 1, 1990;~~

~~(3) action by the department to implement interim measures to minimize nuisances or risks to public health or the environment that are or could be created by waste tire accumulations, until the responsible party can fully abate the site or until a state clean-up occurs pursuant to K.S.A. 65-3424k, and amendments thereto;~~

~~(4) (3) action by the department, with the consent of the city or county, to pay for the removal and disposal or on-site stabilization of waste tires which have been illegally accumulated after July 1, 1990, or, with respect to the conditions of a permit issued by the department pursuant to K.S.A. 65-3407 or 65-3424b, and amendments thereto, or illegally managed, when the responsible party is unknown or unwilling or unable to perform the necessary corrective action; provided moneys in the fund shall only be used to pay up to 75% of the costs of the required abatement action and the city or county shall pay the remaining 25% of such costs, and;~~

~~(5) (4) the costs of using contractors to provide: (A) Public education regarding proper management of waste tires; (B) technical training of persons on the requirements of solid waste laws and rules and regulations relating to waste tires; and (C) services described in subsection (i) of K.S.A. 65-3424k, and amendments thereto; and~~

~~(5) grants to public or private entities for up to 75% of the cost to start-up or enhance projects to recycle waste tires or recover energy through waste tire combustion. In the fiscal year beginning July 1, 2003, waste tire grants may not exceed \$200,000. In subsequent fiscal years, waste tire grants may not exceed the amount of unspent excise tax revenue from the preceding year calculated by subtracting all program expenses and indirect transfers for department overhead from excise tax revenue. All grant applications received for waste tire recycling grants shall be reviewed by the solid waste grants advisory committee established pursuant to K.S.A. 65-3426, and amendments thereto. Waste tire recycling grants shall be subject to the requirements set forth in subsection (g) of K.S.A. 65-3415, and amendments thereto, related to the misuse of grant funds with the exception that any grant funds recovered by the secretary shall be deposited to the waste tire management fund. Waste tire management funds shall be used only for waste tire recycling grants. Waste tire grants shall not be awarded, nor shall waste tire funds be disbursed to a grant recipient, if the department determines that the grant applicant or recipient is operating in substantial violation of applicable environmental laws or regulations administered by the department.~~

(d) All expenditures from the waste tire management 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 secretary.

(e) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the waste tire management fund interest earnings based on: (1) The average daily balance of moneys in the waste tire management fund for the preceding month; and (2) the net earnings rate for the pooled money investment portfolio for the preceding month.

Sec. 20. K.S.A. 65-3424k is hereby amended to read as follows: 65-3424k. (a) ~~Before July 1, 2003;~~ The secretary may undertake appropriate abatement action and may enter into contracts for the abatement of *illegal* waste tires ~~accumulated before July 1, 1990; accumulations or illegally managed waste tires~~ utilizing funds from the waste tire management fund.

(b) Any authorized representative of the secretary may enter, at reasonable times and upon written notice, onto any property or premises where an accumulation of waste tires is located to conduct: (1) An inspection and site assessment to determine whether the accumulation creates a nuisance or risk to public health and safety or to the environment; or (2) interim measures to minimize risk to public health and safety or to the environment.

(c) Whenever the secretary has reason to believe that an accumulation of waste tires creates a nuisance or risk to public health and safety or to the environment or is in violation of rules and regulations adopted by the secretary or conditions of a permit issued by the secretary, the secretary may require the person or persons responsible for the accumulation to carry out abatement activities. Such abatement activities shall be performed in accordance with a plan approved by the secretary. The secretary shall give notice, by letter, to the property owner and responsible parties that the waste tires constitute a nuisance or risk to public health or the environment, and that the waste tire accumulation must be abated within a specified period. The secretary may undertake abatement action utilizing funds from the waste tire management fund if *the responsible parties fail to take the required action within the time period specified in the notice.* ~~(1) The waste tires were accumulated before July 1, 1990, and abated before July 1, 2003; or (2) the waste tires were accumulated after July 1, 1990, and the responsible parties fail to take the required action within the time period specified in the notice.~~

(d) The department and its representatives are authorized to enter private property to perform abatement activities if the responsible party fails to perform required clean-up work, but no entry shall be made without the property owner's consent except upon notice and hearing in accordance with the Kansas administrative procedure act.

~~(e)~~ (e) All costs incurred by the secretary in *the* abatement of *illegal* waste tires ~~accumulated after July 1, 1990; accumulations or illegally managed waste tires~~ or in performing interim measures, including administrative and legal expenses, are recoverable from a responsible party or parties and may be recovered in a civil action in district court brought by the secretary. ~~If Any abatement costs are recovered under this section, the city or county that shared in the cost of the abatement action shall be reimbursed its costs not to exceed 25% of the amount recovered. The remaining amount recovered shall be remitted 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 waste tire management fund. An action to recover abatement or interim measures costs may be commenced at any stage of an abatement.~~

~~(e)~~ (f) In performing or entering contracts for abatement actions under this section, the secretary shall give preference to actions that recycle waste tires or burn waste tires for energy recovery. Direct abatement expenditures may include landfilling when waste tires are contaminated or when feasible in-state markets cannot be identified.

~~(f)~~ (g) Permits granted by the secretary pursuant to K.S.A. 65-3424b, and amendments thereto, shall not be transferable and may be revoked or suspended whenever the secretary determines that the permit holder is operating in violation of this act or rules and regulations adopted pursuant to the act; is creating or threatens to create a hazard to persons, property or the environment; or is creating or threatens to create a public nuisance. The secretary may also revoke, suspend or refuse to issue a permit when the secretary determines that past or continuing violations of the provisions of K.S.A. 65-3409, and amendments thereto, have been committed by the applicant or permit holder.

~~(g)~~ (h) Neither the state of Kansas nor the waste tire management fund shall be liable to any owner, operator or responsible party for the loss of business, damages or taking of property associated with any abatement or enforcement action taken pursuant to this section.

~~(h)~~ (i) The secretary shall enter into contracts with one or more associations of tire retailers to: (1) Assist in disseminating information to all tire retailers on the requirements of solid waste laws and rules and regulations relating to waste tires; (2) establish a point of contact for persons requesting information on solid waste laws and rules and regulations relating to waste tires; (3) assist in planning and implementing conferences, workshops, and other requested training events for persons involved in the generation, transportation, processing, or disposal of waste tires; and (4) assemble and analyze data on waste tire management by tire retailers in Kansas.

Sec. 21. K.S.A. 65-3426 is hereby amended to read as follows: 65-3426. (a) There is hereby established within the department of health and environment the solid waste grants advisory committee, which shall be composed of ~~seven~~ *eight* members as follows:

(1) ~~Six~~ *Seven* members appointed by the governor, two of whom shall represent the interests of regional solid waste management entities, two of whom shall represent the interests of counties, one of whom shall represent the interests of cities, *one of whom shall represent the interests of waste tire generators or handlers* and one of whom shall represent the interests of the private sector;

(2) the secretary of health and environment or the secretary's designee.

(b) Appointive members of the solid waste grants advisory committee shall serve terms of two years. The secretary of health and environment or the person designated by the secretary shall serve as chairperson of the advisory committee.

(c) Members of the solid waste grants advisory committee shall receive amounts provided by subsection (e) of K.S.A. 75-3223, and amendments thereto, for each day of actual attendance at any meeting of the advisory committee or any subcommittee meeting authorized by the advisory committee.

(d) The secretary of health and environment shall provide technical support related to the activities of the solid waste grants advisory committee, including but not limited to establishing project selection criteria, performing technology evaluations, assessing technical feasibility and determining consistency with the statewide solid waste management plan, the applicable county or regional solid waste management plan and regional activities.

(e) In accordance with schedules established by the secretary of health and environment, the solid waste grants advisory committee shall meet to review competitive grant applications submitted pursuant to subsection (b) of K.S.A. 65-3415, and amendments thereto. The advisory committee shall establish a project priority list for each fiscal year based upon the availability of funds as estimated by the secretary and shall make recommendations regarding the selection of grantees and the disbursement of moneys.

Sec. 22. K.S.A. 65-3424, 65-3424a, 65-3424b, 65-3424g, 65-3424k, 65-3424m and 65-3426 are hereby repealed.”;

By renumbering the remaining section as section 23;

In the title, in line 12, by striking “real property” and inserting “the environment”; in line 13, by striking “such” and inserting “certain contaminated real”; in line 14, by striking all after the first semicolon; in line 15, by striking all before the period and inserting “relating to waste tires; amending K.S.A. 65-3424, 65-3424a, 65-3424b, 65-3424g, 65-3424k and 65-3426 and repealing the existing sections; also repealing K.S.A. 65-3424m”

, and **HB 2247** be passed as further amended.

HB 2179 be amended by adoption of the committee amendments, and be passed over and retain a place on the calendar.

HB 2005 be passed over and retain a place on the calendar.

Having voted on the prevailing side Senator Umbarger, moved the Senate reconsider its action on **SCR 1612**. The motion carried and **SCR 1612** remains on General Orders.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On emergency motion of Senator Oleen, **HCR 5021**, A CONCURRENT RESOLUTION relating to the adjournment of the senate and the house of representatives for periods during the 2003 regular session of the legislature, was adopted by voice vote.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 275, An act concerning correctional facilities; relating to construction by private companies, by Committee on Ways and Means.

SB 276, An act concerning workers compensation; relating to work disability; amending K.S.A. 44-501 and 44-510e and K.S.A. 2002 Supp. 44-508 and repealing the existing sections; also repealing K.S.A. 44-510a, by Committee on Ways and Means.

SB 277, An act concerning income taxation; relating to deductions and credits for long-term care insurance premiums paid by an individual, by Committee on Ways and Means.

SB 278, An act repealing K.S.A. 2002 Supp. 79-258 and 79-259, concerning certain property tax exemptions, by Committee on Ways and Means.

MESSAGE FROM THE GOVERNOR

SB 17, SB 53, SB 65, SB 73, SB 118, SB 130, SB 175 approved on March 26, 2003.

March 27, 2003

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate is an appointment made by me as the Governor of the State of Kansas, pursuant to law.

Kathleen Sebelius
Governor

Member of the Kansas Public Employees Retirement System Board of Trustees, Jarold W. Boettcher, pursuant to the authority vested in me by K.S.A. 74-4905, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

REFERENCE OF HOUSE BILLS

The President referred **HB 2426** to the calendar under the heading of General Orders.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Vratil the Senate nonconcur in the House amendments to **H Sub for SB 27** and requested a conference committee be appointed.

The President appointed Senators Vratil, Allen and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcur in the House amendments to **SB 61** and requested a conference committee be appointed.

The President appointed Senators Vratil, Oleen and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcur in the House amendments to **SB 64** and requested a conference committee be appointed.

The President appointed Senators Vratil, Schmidt and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcur in the House amendments to **SB 71** and requested a conference committee be appointed.

The President appointed Senators Vratil, Schmidt and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Umbarger the Senate nonconcur in the House amendments to **Sub SB 83** and requested a conference committee be appointed.

The President appointed Senators Umbarger, Vratil and Hensley as a conference committee on the part of the Senate.

On motion of Senator Allen the Senate nonconcurrent in the House amendments to **SB 103** and requested a conference committee be appointed.

The President appointed Senators Allen, O'Connor and Gilstrap as a conference committee on the part of the Senate.

On motion of Senator Schmidt the Senate nonconcurrent in the House amendments to **SB 131** and requested a conference committee be appointed.

The President appointed Senators Schmidt, Huelskamp and Downey as a conference committee on the part of the Senate.

On motion of Senator Allen the Senate nonconcurrent in the House amendments to **SB 178** and requested a conference committee be appointed.

The President appointed Senators Allen, O'Connor and Gilstrap as a conference committee on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on **Natural Resources** recommends **HB 2027**, as amended by House Committee of the Whole, be amended on page 2, in line 8, by striking "manage and"; in line 12, by striking "managing and"; in line 13, by striking "conserving, managing and"; in line 23, by striking "both"; also in line 23, by striking "and protection"; also in line 23, by striking all after the period; by striking all of lines 24 through 28; in line 29, by striking all after "uncontrolled"; in line 30, by striking "aged"; in line 36, by striking "management and"; in line 39, by striking "management and"; in line 40, by striking all after "county";

On page 3, in line 2, by striking "management and"; in line 3, by striking "management and"; in line 15, by striking "management and"; in line 20, by striking "management and"; in line 36, by striking "and man-"; in line 37, by striking "agement"; in line 41, by striking "management and"; in line 43, by striking "manage-";

On page 4, in line 1, by striking "ment and"; in line 6, by striking "management and"; in line 25, by striking all after "purposes"; in line 26, by striking all before the period; and the bill as amended be reported without recommendation.

Committee on **Ways and Means** recommends **SB 268**; **HB 2241**, as amended by House Committee, be passed.

Also **SB 12** be amended On page 2, in line 13, by striking "The" and inserting "Subject to limitations imposed pursuant to this subsection and otherwise provided by law, the"; in line 22, after the period by inserting "Not more than 25% of the total number of officers and employees appointed or employed by the system shall be in the unclassified service."; and the bill be passed as amended.

SB 13 be amended on page 3, in line 31, after the period by inserting "If the judge's spouse elects a lump sum payment as provided in this section pursuant to the provisions of subsection (d), the lump sum payment will be based on the present value of the retirement option selected by the spouse. The lump sum amount designated by the spouse must be in 10% increments and shall not exceed ½ of the actuarial present value of the option selected in this section.";

On page 4, in line 5, by striking all after "contributions"; by striking all in line 6; in line 7, by striking all before the period;

On page 14, in line 41, after the period by inserting "If the member's spouse elects a lump sum payment as provided in this section pursuant to the provisions of subsection (4), the lump sum payment will be based on the present value of the retirement option selected by the spouse. The lump sum amount designated by the spouse must be in 10% increments and shall not exceed ½ of the actuarial present value of the option selected in this section.";

On page 15, in line 16, by striking all after "contributions"; by striking all in line 17; in line 18, by striking all before the period;

On page 23, in line 23, after the period, by inserting "If the member's spouse elects a lump sum payment as provided in this section pursuant to the provisions of subsection (6), the lump sum payment will be based on the present value of the retirement option selected by the spouse. The lump sum amount designated by the spouse must be in 10% increments and shall not exceed ½ of the actuarial present value of the option selected in this section.";

in line 42, by striking all after "thereto"; by striking all in line 43;

On page 24, by striking all in line 1; in line 2, by striking all before the period;

On page 27, in line 27, after the period, by inserting "If the member's spouse elects a lump sum payment as provided in this section pursuant to the provisions of subsection (6), the lump sum payment will be based on the present value of the retirement option selected by the spouse. The lump sum amount designated by the spouse must be in 10% increments and shall not exceed ½ of the actuarial present value of the option selected in this section.";

On page 28, in line 3, by striking all after "thereto"; by striking all in lines 4 and 5; in line 6, by striking all before the period; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 199; SR 1827 reported correctly engrossed March 27, 2003.

Also: **SB 74, SB 132, SB 151** correctly re-engrossed March 27, 2003.

REPORT ON ENROLLED BILLS

SCR 1613 reported correctly enrolled, properly signed and presented to the Secretary of State on March 27, 2003.

On motion of Senator Oleen the Senate adjourned until 10:00 a.m. Friday, March 28, 2003.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

