

Journal of the Senate

THIRTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 26, 2004—10:00 a.m.

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

Heavenly Father,

These Senators represent approximately 60,000 people who are a study in diversity.

They are:

Rich and Poor	Blue collar and White
Young and Old	Managers and Laborers
Male and Female	Voters and Non-voters
Rural and Urban	Strong and Weak
Educated and Uneducated	Law abiding and Law breakers
Married and Single	Powerful and Powerless
Parents and Childless	Godly and Ungodly

They are: Well, Sick, and Disabled
Democrat, Republican and Independent
Liberal, Moderate, and Conservative

They consist of all colors, races, ethnicities, cultures.

How can one person serve the needs of so many different people?

You know, O God, that it is impossible without Your wisdom and Your strength.

Give our Senators discernment, insight, firmness, and compassion.

Teach them to walk by faith and not by sight. (II Corinthians 5:7)

I pray in the Name of Christ,

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 546, An act concerning insurance; relating to the regulation of transfer and novation of insurance contracts; relating to group term life insurance; amending K.S.A. 40-433 and repealing the existing section, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Elections and Local Government: **HB 2793**.

Natural Resources: **HB 2604**, **HB 2731**.

Transportation: **HB 2563**, **HB 2707**, **HB 2745**, **HB 2746**.

Ways and Means: **SB 545**; **HB 2725**.

CHANGE OF REFERENCE

The President withdrew **SB 293, SB 344, SB 512** from the Committee on Ways and Means, and rereferred the bills to the Committee on Education.

The President withdrew **SB 355, SB 432** from the Committee on Ways and Means, and rereferred the bill to the Committee on Judiciary.

The President withdrew **SB 401, SB 522** from the Committee on Ways and Means, and rereferred the bills to the Committee on Utilities.

The President withdrew **SB 409** from the Committee on Ways and Means, and rereferred the bill to the Committee on Agriculture.

REFERRAL OF APPOINTMENTS

The following appointment made by the Governor and submitted to the senate for confirmation, was referred to Committee as indicated:

Member, Kansas Development Finance Authority, Timothy C. Schaller, effective upon the date of confirmation by the Senate, to serve a term of four years.

(Commerce)

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2235, HB 2306; Substitute HB 2435; Substitute HB 2593; HB 2602, HB 2605, HB 2622; Substitute HB 2647; HB 2657, HB 2658, HB 2695; Substitute HB 2698; HB 2717, HB 2718, HB 2719, HB 2756, HB 2759, HB 2767, HB 2770, HB 2772; Substitute HB 2777; HB 2790, HB 2795, HB 2820, HB 2833, HB 2869, HB 2871.**

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2235, HB 2306; Substitute HB 2435; Substitute HB 2593; HB 2602, HB 2605, HB 2622; Substitute HB 2647; HB 2657, HB 2658, HB 2695; Substitute HB 2698; HB 2717, HB 2718, HB 2719, HB 2756, HB 2759, HB 2767, HB 2770, HB 2772; Substitute HB 2777; HB 2790, HB 2795, HB 2820, HB 2833, HB 2869, HB 2871 were thereupon introduced and read by title.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

Sub SB 296. An act relating to the Kansas department of agriculture; transferring powers and duties of the secretary of the department of health and environment to the secretary of agriculture; amending K.S.A. 65-688 and 74-560 and K.S.A. 2003 Supp. 74-567 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Adkins, Barnett, Brownlee, Haley, Journey, Wagle.

The substitute bill passed, as amended.

SB 314. An act concerning technical colleges; relating to the powers and duties of the governing bodies thereof; amending K.S.A. 2003 Supp. 72-4470a and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

SB 326. An act concerning pest control; relating to licensure requirements; amending K.S.A. 2-2448 and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

SB 328, An act concerning municipalities, relating to liens for water and sewer service; amending K.S.A. 12-631k, 12-860, 14-569, 19-2765b and 19-27,170 and repealing the existing sections, was considered on final action.

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

Yeas: Barnett, Barone, Betts, Brungardt, Buhler, Bunten, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Wagle.

Nays: Adkins, Allen, Brownlee, Clark, Corbin, Donovan, Pugh, Vratil.

The bill passed.

SB 331, An act concerning wind resources and technologies; relating to the recording of leases or easements related thereto; amending K.S.A. 58-2221 and repealing the existing section, was considered on final action.

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

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

Nays: Betts, Corbin, Journey, Kerr, Pugh, Schmidt, Schodorf, Umbarger.

The bill passed, as amended.

SB 350, An act concerning crimes and punishment; relating to parole; amending K.S.A. 12-4511 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Barone, Betts, Brownlee, Journey, Pugh.

The bill passed.

SB 357, An act concerning notaries public; creating the Kansas notary public act; repealing K.S.A. 53-401, 53-503, 53-505, 53-506, 53-507, 53-508, 53-509, was considered on final action.

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

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

Nays: Pugh, Tyson.

The bill passed, as amended.

SB 370, An act concerning income taxation; relating to deduction for long-term care insurance premium costs; amending K.S.A. 2003 Supp. 79-32,117 and repealing the existing section, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp,

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

Nays: Bunten.

The bill passed, as amended.

Sub SB 380, An act concerning liens for wrecker and towing service; pertaining to notice to lienholder; amending K.S.A. 8-1102, 8-1103 and 8-1104 and repealing the existing sections, was considered on final action.

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

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

The substitute bill passed.

SB 382, An act relating to public utilities; concerning the recovery of certain costs of security measures; amending K.S.A. 66-1233 and repealing the existing section, was considered on final action.

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

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

Nays: Schmidt.

The bill passed, as amended.

SB 384, An act regulating traffic; concerning the maximum speed limits; amending K.S.A. 8-1560c and 8-1560d and K.S.A. 2003 Supp. 8-1558 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 29, Nays 11, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barone, Betts, Brownlee, Brungardt, Bunten, Corbin, Emler, Gilstrap, Goodwin, Haley, Helgerson, Huelskamp, Jackson, Jordan, Journey, Kerr, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Wagle.

Nays: Adkins, Allen, Barnett, Buhler, Clark, Donovan, Downey, Hensley, Lee, Umbarger, Vratil.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **SB 384**. We have no business raising our maximum speed limits when we have failed to enact a primary seat belt law. The rate of seat belt use in Kansas is well below the national average. We know that the enactment of a primary seat belt law, on average, works to increase seat belt use by 11%. The Senate's failure to pass such a law continues to contribute to unnecessary death and injury on Kansas highway.—

DAVID ADKINS

SB 387, An act concerning the interlocal agreement act; relating to the powers and duties of public agencies; amending K.S.A. 2003 Supp. 12-2904 and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

SB 396, An act concerning the nuclear energy development and control act; relating to fees; amending K.S.A. 48-1606 and repealing the existing section, was considered on final action.

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

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

Nays: Huelskamp.

The bill passed, as amended.

SB 403, An act concerning schools and school districts; relating to school finance; providing revenue through sales and use taxes and income tax surcharge; amending K.S.A. 72-6405, 72-6410, 72-6412, 72-6413, 72-6414 and 72-6442 and K.S.A. 2003 Supp. 72-6407, 72-6431, 79-32,110, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections; also repealing K.S.A. 72-6433b and 72-6440 and K.S.A. 2003 Supp. 72-6431b, 72-6431c, 79-201y, 79-3603c, 79-3620c and 79-3710a, was considered on final action.

On roll call, the vote was: Yeas 14, Nays 25, Present and Passing 1, Absent or Not Voting 0.

Yeas: Adkins, Barone, Betts, Buhler, Downey, Goodwin, Haley, Helgerson, Hensley, Lee, Oleen, Schodorf, Steineger, Teichman.

Nays: Allen, Barnett, Brownlee, Brungardt, Bunten, Clark, Corbin, Donovan, Emler, Huelskamp, Jackson, Jordan, Journey, Kerr, Lyon, Morris, O'Connor, Pugh, Salmans, Schmidt, Taddiken, Tyson, Umbarger, Vratil, Wagle.

Present and Passing: Gilstrap.

A constitutional majority having failed to vote in favor of the bill, **SB 403** did not pass.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **SB 403**. To date this Legislature's efforts on education are, I believe, best characterized by denial, delay and demagoguery. Too many of us have chosen to exploit the issue in pursuit of "gotcha politics". Shame on us. This issue cries out for constructive, bi-partisan collaboration. In the wake of adverse court rulings and costly federal education mandates complacency is simply not an option. I remain hopeful that this Legislature will rise to the occasion. Such hope is fueled by my belief that a large majority of us support excellent educational opportunities for Kansas school children. This is the common ground upon which we must build. Recognizing that time is quickly running out, we must accept the challenge of leadership this issue presents and commit to work together, with civility, to meet our obligations as stewards of the public schools. I vote for this measure with some strong reservations because I want more options instead of fewer when it comes to crafting a final product capable of addressing the needs of Kansas children and their communities. For me, complacency in the face of such well-documented need is an unacceptable injustice against the future.—DAVID ADKINS

Senator Hensley requests the record to show he concurs with the "Explanation of Vote" offered by Senator Adkins on **SB 403**.

MR. PRESIDENT: I vote "Yes" on **SB 403**. Not because this is a perfect bill; but because this is a step forward in the process of our education debate. I don't expect this bill will pass, but this is an important first step. We have significant areas of concern that should be addressed, including, but not limited to: address at-risk weighting, all-day kindergarten, and base state aid. **SB 403** would start that process and focus the discussion on what is needed in our schools.

There were several attempts to improve this bill, removing property tax, a one-year plan, and having a more balanced revenue plan. I am concerned that we will soon have two tax systems, one where the wealthy and corporations pay less and one where working families pay more. I will continue to push for tax equity for all Kansans.

Today **SB 403** is before us and our Governor asked me to support this bill in order to further the debate and keep a dialogue alive. The time to get serious about this important issue is upon us.

I vote "yes."—JIM BARONE

MR. PRESIDENT: I vote no on **SB 403**. The Governor has attempted to right some of the perceived wrongs in the school finance issue. Unfortunately, Johnson County was overlooked

in this bill. The Governor's proposal would further exacerbate the inequality in our current formula. The large districts in our county proportionately receive significantly less state aid than the small districts across the state. Tax increases are also proportionately more harmful to Johnson County. We must exercise political will and rewrite the formula.—KARIN BROWNLEE

MR. PRESIDENT: The funding plan and tax increase in **SB 403** is directed to education support. That is laudable and may be needed to effectively address the inequities in our funding formula. The basic state of Kansas budget still has questions that are unanswered, however.

I am not ready to discuss tax issues for education until we address transportation, medical, and pension funding obligations. Once our budget is honestly accounted, we can consider the education proposition fairly.—PETE BRUNGARDT

MR. PRESIDENT: I vote "YES" on **SB 403**.

SB 403 is the best offer currently available to help our school children and employees. **SB 403** is a good faith effort to move the process forward in recognition of the growing needs of our educational communities.

We recognize our responsibility to support our schools. We must address at-risk weighting, all-day kindergarten, and base state aid. **SB 403** starts that process and focuses the discussion on what is needed in our schools.

SB 403 is economic development for Kansas. With 63,900 employees and a \$1.9 billion payroll, this is an "industry" we can't ignore. We give tax breaks to corporations to save 1,000 or 2,000 jobs; we should give that same level of support to education in our state. We can't have economic growth without an educated workforce. Investing in our future — our children and schools — is a key to maintaining a strong economy.

No question, school finance is THE issue for the 2004 session. Ignoring our schools and our school children will not play well with electors this fall. It will not play well with the Court system either. But beyond the courts and politics, we're doing this because it is the right thing to do for Kansas children.—CHRISTINE DOWNEY

Senators Goodwin, Hensley and Lee request the record to show they concur with the "Explanation of Vote" offered by Senator Downey on **SB 403**.

MR. PRESIDENT: **SB 403** contains three unaffordable items: (1) a new and very expensive unfunded mandate on our local school districts, (2) a massive expansion of education spending with no additional accountability, and (3) a massive tax increase perhaps the largest in state history that would damage our state economy and cost thousands of jobs. For these three reasons, I must vote no on **SB 403**.—TIM HUELSKAMP

Senators Journey and O'Connor request the record to show they concur with the "Explanation of Vote" offered by Senator Huelskamp on **SB 403**.

I vote no on **SB 403**.

There can be no greater responsibility for me or the other members of this body than to plan for the education of the children of this state. Our role in providing and sustaining a system of quality education is, quite simply, paramount.

Even with the recognition of this responsibility and acknowledgment of its importance to our future, I cannot vote for **SB 403** which will force the taxpayers of Kansas to dig \$1.7 billion more from their pockets to pay more sales taxes, more income taxes, and more property taxes. Just two years ago we did increase some taxes to avoid massive cuts in school funding.

We know that putting money into our schools is only one factor in school improvement. We know that Kansas students are performing well on state assessments. We know that we are delivering a suitable education to our students. And, we know that we are graduating scholars at an unprecedented rate.

Creating an exemplary educational system is always our goal. We can craft a more realistic bill, and we are presently working to do so.—DAVE KERR

Senators Helgerson, Morris, Pugh, Salmans and Umbarger request the record to show they concur with the "Explanation of Vote" offered by Senator Kerr on **SB 403**.

MR. PRESIDENT: I vote "aye" on **SB 403** today because this measure is the first attempt to recognize we must do better for students in our Kansas public schools. I do not mind being on the losing side in the first round.

More than half of the 2004 session is over this week; **SB 403** helps us to focus our attention on our funding for Kansas children. I will continue to support genuine, progressive efforts to ensure our public education system remains strong.—LANA OLEEN

Senator Buhler and Schodorf request the record to show they concur with the "Explanation of Vote" offered by Senator Oleen on **SB 403**.

MR. PRESIDENT: **SB 403** is the beginning of this year's debate on school finance, not the end. What counts is where we end, not where we begin.—DEREK SCHMIDT

Senators Allen, Taddiken, Umbarger and Vratil request the record to show they concur with the "Explanation of Vote" on **SB 403**.

MR. PRESIDENT: Until now, as a State Legislator I have never voted for a tax hike because I believe all layers of Government combined take too much revenue overall.

I have never voted for a state budget because I believe State Government spends too much money for the wrong programs, and not enough on Birth - 12 education.

I have always publicly said that Birth - 12 education is the one area of government that needs and deserves more funding, and I've publicly said that if I ever saw a tax hike targeted at early childhood education, I'd probably support it.

Today is the day, and this is the tax hike. With this vote, my actions match my words. I vote aye on **SB 403**.—CHRIS STEINEGER

MR. PRESIDENT: In recent years we have taken many votes on education, votes that I have taken even though I felt they were not in the best interest of our children. I understand my obligation to tax payers and have tried to balance their plight with the needs of children. However, the inaction of the legislature has brought us to the situation we are in today, a lawsuit accusing us of not being sensitive to the needs of children.

I can no longer accept the responsibility of inaction at the state level nor pushing the burden of funding schools back on our local tax payers. Costs of school systems continue to rise, while districts have become more efficient as dollars have decreased. We have quality schools in Kansas, and I want to see that quality continued.

There are promises of plans forthcoming, plans that I have no idea what are in them. While I do not support every aspect of this bill and am concerned with the tax increases, funding schools is the right thing to do.

My vote today is not Republican or Democrat; it is not moderate, conservative or liberal. It is a vote for the children of Kansas.—RUTH TEICHMAN

Senator Haley requests the record to show he concurs with the "Explanation of Vote" offered by Senator Teichman on **SB 403**.

SB 404. An act concerning real estate brokers and salespersons; relating to licensure thereof; relating to certain prohibited acts; amending K.S.A. 2003 Supp. 58-3043, 58-3050 and 58-3062 and repealing the existing sections, was considered on final action.

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

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

Nays: Pugh.

The bill passed, as amended.

SB 410. An act concerning the employment security laws; relating to failure to pass a pre-employment drug screen and misconduct; amending K.S.A. 2003 Supp. 44-706 and repealing the existing section, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huel-

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

The bill passed, as amended.

SB 415, An act concerning property taxation; relating to classification of property; amending K.S.A. 79-1459 and repealing the existing section, was considered on final action.

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

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

The bill passed.

SB 416, An act concerning solid waste; relating to fees; amending K.S.A. 65-3410 and repealing the existing section, was considered on final action.

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

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

The bill passed.

SB 424, An act concerning trusts; relating to the transfer of property into a trust, was considered on final action.

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

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

The bill passed, as amended.

SB 426, An act concerning institutional licenses under the Kansas healing arts act; amending K.S.A. 65-2895 and repealing the existing section, was considered on final action.

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

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

The bill passed.

SB 431, An act concerning crimes and punishment; relating to criminal use of weapons; amending K.S.A. 2003 Supp. 21-4201 and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

SB 436, An act concerning civil procedure; relating to limitations on actions; amending K.S.A. 60-523 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Jackson, Jordan, Kerr, Lee, Lyon, Morris, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Clark, Huelskamp, Journey, O'Connor, Pugh, Tyson.

The bill passed, as amended.

SB 440, An act concerning employment security law; relating to rating successor employers; amending K.S.A. 2003 Supp. 44-704b, 44-706, 44-709, 44-710 and 44-710a and repealing the existing sections, was considered on final action.

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

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

The bill passed, as amended.

SB 442, An act concerning fees for services provided by the state treasurer's office; establishing the treasurer services reimbursement fund, was considered on final action.

On roll call, the vote was: Yeas 30, Nays 9, Present and Passing 1, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Emler, Goodwin, Huelskamp, Jackson, Jordan, Journey, Kerr, Lyon, Morris, O'Connor, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil.

Nays: Barone, Betts, Gilstrap, Haley, Helgerson, Hensley, Lee, Pugh, Wagle.

Present and Passing: Downey.

The bill passed.

SB 443, An act concerning the behavioral science regulatory board; relating to disciplinary authority; amending K.S.A. 65-5809, 65-6311, 74-5324, 74-5369, 74-7507 and 74-7508 and repealing the existing sections; also repealing K.S.A. 65-6318, 74-5335 and 74-5343, was considered on final action.

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

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

Nays: Pugh.

The bill passed, as amended.

SB 447, An act relating to roads and highways; concerning culverts or new entrances; amending K.S.A. 68-543 and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

SB 448, An act repealing K.S.A. 68-507, 68-515a, 68-528, 68-533, 68-578, 68-579, 68-901 through 68-908, 68-1123, 68-1131, 68-1132, 68-1134 and 68-1231; concerning roads and highways, was considered on final action, was considered on final action.

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

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

The bill passed, as amended.

SB 449, An act relating to roads and highways; concerning bids; amending K.S.A. 68-704, 68-705, 68-1113, 68-1114, 68-1115, 68-1117, 68-1118, 68-1119, 68-1120, 68-1121 and 68-1125 and repealing the existing sections, was considered on final action.

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

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

The bill passed, as amended.

SB 472, An act concerning motor carriers; relating to trucks mounted with fertilizer spreaders; amending K.S.A. 2003 Supp. 66-1,109 and repealing the existing section, was considered on final action.

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

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

The bill passed.

SB 478, An act concerning personal property taxation; relating to classification; wireless communication towers, antenna and relay sites, was considered on final action.

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

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

Nays: Barone, Gilstrap, Steineger.

The bill passed, as amended.

SB 481, An act concerning the employment security laws; relating to state unemployment tax, exempting private prison based industries from payment; amending K.S.A. 2003 Supp. 44-703 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barone, Gilstrap, Goodwin, Lee, Steineger.

The bill passed.

SB 502, An act concerning elections; relating to proxy voting at district conventions; amending K.S.A. 25-3902, 25-3902a, 25-3904 and 25-3904a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 27, Nays 12, Present and Passing 1, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Donovan, Downey, Emler, Gilstrap, Goodwin, Helgerson, Jackson, Jordan, Journey, Kerr, Lyon, Morris, O'Connor, Taddiken, Tyson, Umbarger, Vratil, Wagle.

Nays: Clark, Corbin, Haley, Hensley, Lee, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Teichman.

Present and Passing: Huelskamp.

The bill passed, as amended.

SB 508, An act concerning insurance; enacting the standard nonforfeiture law for individual deferred annuities; repealing K.S.A. 2003 Supp. 40-428a, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huels-

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

The bill passed.

HB 2008, An act concerning public postsecondary education; concerning certain persons deemed to be residents for purposes of tuition and other fees at postsecondary educational institutions, was considered on final action.

On roll call, the vote was: Yeas 25, Nays 15, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Downey, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Jordan, Kerr, Lee, Oleen, Schmidt, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle.

Nays: Barnett, Clark, Corbin, Donovan, Emler, Huelskamp, Jackson, Journey, Lyon, Morris, O'Connor, Pugh, Salmans, Taddiken, Tyson.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **HB 2008**. When an out of state student moves to Kansas to attend one of our excellent Regents institutions, they must live here for only one year to become a resident. This bill would allow Kansas high school students who have lived in our state for at least three years but are not citizens by no fault of their own, to experience the opportunity of a college education at an in state price.—KARIN BROWNLEE

Senators Allen, Buhler, Hensley, Oleen, Umbarger and Vratil request the record to show they concur with the "Explanation of Vote" offered by Senator Brownlee on **HB 2008**.

MR. PRESIDENT: I vote yes on **HB 2008**. There has been tremendous effort put forth to craft this bill and extend the opportunity of a college education, in a responsible way, to those students who have earned it. There are many safeguards within this bill and we can be assured that hard- working students (regardless of their parents immigration status) will continue their education, while seeking their citizenship in this country.

It is encouraging to see, with passage of this bill, that we continue to support the importance of advanced education, an integral part of the American Dream.—CHRISTINE DOWNEY

Senators Allen, Goodwin, Hensley and Umbarger request the record to show they concur with the "Explanation of Vote" offered by Senator Downey on **HB 2008**.

I vote aye on **HB 2008**.

Kansans place a great value on the achievement of a post-secondary education. To have the advantage of in-state tuition which pays only one-third of the cost of the education provided is a great privilege. It should be reserved for Kansans and those sincerely committed to becoming legal Kansans. That is exactly what this bill now does.

With **HB 2008**, there are a number of safeguards that will insure that the state is underwriting the education of dedicated, successful students who attended a Kansas high school for at least three and one-half years, meet qualified enrollment standards, and have graduated. A critical component of this bill states the student and parents must have filed an affidavit that proclaims their intent to legalize his or her immigration status or the intent to file for US citizenship. The length of time that it takes to become a US citizen is an issue over which we as a state legislature have no control. We can however, accommodate those immigrants who are working to grasp the American dream, and help them succeed.—DAVE KERR

Senators Allen, Barone, Betts, Brownlee, Goodwin, Haley, Helgerson, Lee, Oleen, Schmidt, Steineger, Teichman, Umbarger and Vratil request the record to show they concur with the "Explanation of Vote" offered by Senator Kerr on **HB 2008**.

MR. PRESIDENT: I vote no on **HB 2008** because although charity toward anyone in need is to be praised, requiring already over burdened taxpayers to contribute to non-US citizens when they are struggling to take care of the needs of Kansas citizens and their own families is an injustice and not worthy of good stewardship of the taxpayers hard earned dollars.—KAY O'CONNOR

REPORT ON ENGROSSED BILLS

SB 417 reported correctly engrossed February 25, 2004.

SB 257, SB 309, SB 330, SB 366, SB 373, SB 376, SB 422, SB 423, SB 446, SB 524 reported correctly engrossed February 26, 2004.

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 Donovan in the chair.

Recommended **SB 479** be passed.

SB 461, SB 480 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 304 be amended by adoption of the committee amendments, be further amended by motion of Senator Umbarger as amended by Senate Committee, on page 1, in line 28, by striking "prior to" and inserting "by"; in line 34, by striking "on or";

On page 2, in line 16, by striking "prior to" and inserting "by"; in line 22, by striking "on or"

Senator Brownlee amended the bill as amended by Senate Committee, on page 2, following line 37, by inserting:

"Sec. 2. The state board of education may waive the requirements of K.S.A. 72-1106, and amendments thereto, relating to the duration of the school year upon application for such waiver by a school district. The waiver may be granted by the state board upon: (a) Certification by a board of education that an inordinate amount of severe winter weather conditions, including but not limited to, heavy snowfall and freezing rain had occurred in the district during the 2003-2004 school year and (b) a determination by the state board that the district cannot reasonably adjust its schedule to comply with the provisions of law. The period of time school is not maintained as a result of such snowfall, upon granting of the waiver by the state board, shall be considered part of the school term.

No more than three days, or the hourly equivalent thereof, may be waived by the state board pursuant to this section.";

By renumbering the remaining section accordingly;

In the title, in line 10, by striking all after the semicolon where it appears for the first time; in line 11, by striking all before the period and inserting "relating to the powers and duties of the state board of education and local boards of education"

Senator Brownlee further amended the bill as amended by Senate Committee, on page 2, in line 39, by striking "statute book" and inserting "Kansas register", and **SB 304** be passed as further amended.

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

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

AFTERNOON SESSION

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and concurrent resolutions were introduced and read by title:

SB 547, An act concerning eminent domain; relating to certain limitations on taking of private property; amending K.S.A. 26-513 and repealing the existing section, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1617—

By Senator O'Connor

A PROPOSITION to amend section 3 of article 3 of the constitution of the state of Kansas, relating to supreme court jurisdiction and terms.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 3 of article 3 of the constitution of the state of Kansas is hereby amended to read as follows:

“§ 3. **Jurisdiction and terms.** The supreme court shall have original jurisdiction in proceedings in quo warranto, mandamus, and habeas corpus, ~~and, with such exceptions and under such regulations as may be provided by law. The supreme court shall have such appellate jurisdiction, with such exceptions and regulations, as may be provided by law.~~ ~~It shall~~ Failure to comply with such exceptions and such regulations shall be a high crime under article 2, section 28 of this constitution, and an impeachable offense under article 2, section 27. The supreme court shall hold one term each year at the seat of government and such other terms at such places as may be provided by law, and its jurisdiction shall be co-extensive with the state.”

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

“*Explanatory statement.* The constitution of this state provides for a seven-member supreme court. The supreme court is granted original jurisdiction in certain proceedings and appellate jurisdiction as may be provided by law (statute).

“A vote for this proposition would allow the legislature by statute to create exceptions and regulations to the proceedings in which the supreme court has original jurisdiction and continue the authority of the legislature to provide by law for the appellate jurisdiction of the supreme court. The proposition would make failure by the supreme court to comply with the exceptions and regulations provided by law a high crime and an impeachable offense under the Kansas constitution.

“A vote against this proposition would continue in effect the current language of section 3 of article 3 providing original jurisdiction of the supreme court in certain proceedings and appellate jurisdiction of the supreme court as provided by law.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 2004 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

SENATE CONCURRENT RESOLUTION No. 1618—

By Senator O'Connor

A PROPOSITION to amend section 6 of article 6 of the constitution of the state of Kansas, relating to the financing of education.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 6 of article 6 of the constitution of the state of Kansas is hereby amended to read as follows:

“§ 6. **Finance.** (a) The legislature may levy a permanent tax for the use and benefit of state institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature.

(b) The legislature shall make suitable provision, *as determined by the legislature*, for finance of the educational interests of the state. No tuition shall be charged for attendance at any public school to pupils required by law to attend such school,

except such fees or supplemental charges as may be authorized by law. The legislature may authorize the state board of regents to establish tuition, fees and charges at institutions under its supervision.

(c) No religious sect or sects shall control any part of the public educational funds.”

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

“*Explanatory statement.* The constitution of this state provides that the legislature is to make suitable provision for financing the educational interests of the state.”

“A vote for this proposition would provide that the legislature would not only make suitable provision for finance of the educational interests of the state but would also determine what constitutes “suitable provision” for finance of the educational interests of the state.”

“A vote against this proposition would continue in effect the requirement that the legislature make suitable provision for finance of the education interests of the state but would not specify that the legislature determine what constitutes “suitable provision” for finance of educational interests of the state.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 2004 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

CHANGE OF REFERENCE

The President withdrew **SB 308, SB 369** from the Committee on Assessment and Taxation, and referred the bills to the Committee on Ways and Means.

The President withdrew **SB 395, SB 504** from the Committee on Commerce, and referred the bills to the Committee on Ways and Means.

MESSAGE FROM THE GOVERNOR

SB 254 approved on February 26, 2004.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Kerr, Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Buntten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1820—

A RESOLUTION congratulating the Kansas Association of Homes and Services for the Aging on the occasion of its 50th anniversary of service, and commending its members for dedicated service to elder Kansans.

WHEREAS, The Kansas Association of Homes and Services is the statewide organization dedicated to assisting not-for-profit retirement communities, nursing homes, and assisted living, senior housing and community-based service providers, to provide the highest quality care and services to elder Kansans; and

WHEREAS, The year 2004 commemorates the 50th anniversary of the establishment of the Kansas Association of Homes and Services for the Aging; and

WHEREAS, Elder Kansans have made, and continue to make, invaluable contributions to our families, communities, state, nation and world, from which all Kansans greatly benefit; and

WHEREAS, The members of the Kansas Association of Homes and Services are known for quality, innovation, compassion and caring; and

WHEREAS, The Kansas Association of Homes and Services for the Aging and its members are leaders in the movement to transform facility-based long-term care into residences in which elders are the decision-makers, direct caregivers are empowered to be responsive to elders and each other, where an atmosphere and attitude of home prevails, and where the organization, elders and caregivers are an integral and vital part of their local community; and

WHEREAS, The 160 members of the Kansas Association of Homes and Services for the Aging, including their 29,000 employees statewide, have taken up the cause of meeting the unmet needs of our elder citizens: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the Kansas Association of Homes and Services for the Aging on the occasion of its 50th anniversary, commend its members for caring and compassionate service, and encourage all Kansans to support the mission of not-for-profit long-term care organizations, and to express appreciation to those who live and work there; and

Be it further resolved: That the Secretary of the Senate provide four enrolled copies of this resolution to John R. Grace, Kansas Association of Homes and Services for the Aging, 217 SE 8th, Topeka, KS 66603.

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

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 Donovan in the chair.

On motion of Senator Donovan the report for the morning session and the following afternoon report were adopted:

Recommended **SB 372, SB 411, SB 413, SB 460** be passed.

The committee report on **SB 335** recommending a **Sub SB 335** be adopted, and the substitute bill be passed.

The committee report on **SB 496** recommending a **Sub SB 496** be adopted, and the substitute bill be passed.

SB 310, SB 321, SB 354, SB 367, SB 388, SB 392, SB 394, SB 425, SB 452, SB 453, SB 466, SB 511, SB 520, SB 521 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 441 be amended by adoption of the committee amendments, and the bill be passed as amended.

A motion by Senator Journey failed and the following amendment was rejected: as amended by Senate Committee, on page 3, in line 29, after the period by inserting "Whenever an event occurs as described by subsection (d)(1), (d)(2) or (d)(3), the notice, written claim and service provisions of K.S.A. 44-520 and 44-520a, and amendments thereto, shall be deemed satisfied."

Senator Oleen moved to amend **SB 390** on page 1, by striking all in lines 37 through 42

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

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

Yeas: Barnett, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Jackson, Jordan, Journey, Kerr, Lyon, Morris, Oleen, Schmidt, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Allen, Barone, Betts, Corbin, Downey, Emler, Gilstrap, Goodwin, Haley, Helgeron, Hensley, Huelskamp, Lee, O'Connor, Pugh, Salmans, Schodorf, Steineger.

Absent or Not Voting: Adkins.

The motion carried and the amendment was adopted.

The Committee recommended **SB 390** be passed as amended.

SB 303 be amended by adoption of the committee amendments, be further amended by motion of Senator Umbarger as amended by Senate Committee, on page 2, in line 32, by striking "undergraduate"; in line 34, by striking "The trea-"; by striking all in line 35; in line 36, by striking all before "Such", and **SB 303** be passed as further amended.

SB 420 be amended by adoption of the committee amendments, be further amended by motion of Senator Goodwin as amended by Senate Committee, on page 2, in line 3, after the period by inserting “The payment of reasonable attorney fees established in this subsection shall not apply to actions filed pursuant to article 16 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.”, and **SB 420** be passed as further amended.

SB 437 be amended by adoption of the committee amendments, be further amended by motion of Senator Lee as amended by Senate Committee, on page 1, in line 21, by striking “On”; by striking all in lines 22 through 26; in line 27, by striking all before “In”;

On page 2, in line 16, by striking “the amount established in K.S.A. 61-2703,”; in line 17, by striking “and amendments thereto” and inserting “\$5,000”; in line 21, by striking “the amount established in K.S.A. 61-2703,”; in line 22, by striking “and amendments thereto” and inserting “\$5,000”, and **SB 437** be passed as further amended.

SB 469 be amended by adoption of the committee amendments, be further amended by motion of Senator Brownlee as amended by Senate Committee, on page 1, after line 33, by inserting the following:

“Sec. 3. K.S.A. 2003 Supp. 22-4909 is hereby amended to read as follows: 22-4909.

(a) The statements or any other information required by ~~this~~ *the Kansas offender registration act* shall be open to inspection by the public at the sheriff’s office, at the headquarters of the Kansas bureau of investigation and on any internet website sponsored or created by a sheriff’s department or the Kansas bureau of investigation that contains such statements or information, and specifically are subject to the provisions of the Kansas open records act, K.S.A. 45-215 *et seq.*, and amendments thereto, except that the name, address, telephone number, or any other information which specifically and individually identifies the victim of any offender required to register as provided in this act shall not be disclosed other than to law enforcement agencies.

(b) *If an offender resides within 1,000 feet of any licensed child care facility or any school property upon which is located a structure used by a unified school district or a nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12, the sheriff of the county in which the facility or school is located shall communicate in writing or by electronic mail to the administrator of such facility or school the following information concerning such offender: Name; date of birth; offense or offenses committed, date of conviction or convictions obtained; city or county of conviction or convictions obtained; sex and age of victim; current address; identifying characteristics such as race, skin tone, sex, age, hair and eye color, scars, tattoos and blood type; occupation, name of employer and place of employment; drivers license and vehicle information; and a photograph. The sheriff may collect a fee not to exceed \$50 from the offender to cover the costs of implementing this subsection. If a fee is collected, the fee shall be set by the board of county commissioners by resolution. Such fee shall be deposited in the county general fund.*

Sec. 4. K.S.A. 2003 Supp. 22-4909 is hereby repealed.”;

And by renumbering the remaining section accordingly;

Also on page 1, in the title, in line 10, after “ACT” by inserting “concerning crimes, punishment and criminal procedure; relating to offender registration.”; in line 12, before the period by inserting “; amending K.S.A. 2003 Supp. 22-4909 and repealing the existing section”, and **SB 469** be passed as further amended.

SB 483 be amended by adoption of the committee amendments, be further amended by motion of Senator Barone on page 6, line 30, following alleges, strike “the absence was” and by adding “their repeated absences were”, and **SB 483** be passed as further amended.

Senator Steineger moved to amend **SB 313** on page 5, in line 20, after “Douglas” by inserting “and Wyandotte”; in line 24, after “Douglas” by inserting “or Wyandotte”;

On page 7, after line 4, by inserting the following:

“Sec. 2. K.S.A. 2003 Supp. 12-188 The following classes of cities are hereby established for the purpose of imposing limitations and prohibitions upon the levying of sales and excise taxes or taxes in the nature of an excise upon sales or transfers of personal or real property or the use thereof, or the rendering or furnishing of services by cities as authorized and provided by article 12, section 5, of the constitution of the state of Kansas:

Class A cities. All cities in the state of Kansas which have the authority to levy and collect excise taxes or taxes in the nature of an excise upon the sales or transfers of personal or real property or the use thereof, or the rendering or furnishing of services by cities.

Class B cities. All cities in the state of Kansas which have the authority to levy and collect excise taxes or taxes in the nature of an excise upon the sales or transfers of personal or real property or the use thereof, or the rendering or furnishing of services for the purpose of financing the provision of health care services.

Class C cities. All cities in the state of Kansas having a population of more than 290,000 located in a county having a population of more than 350,000 which has the authority to levy and collect excise taxes or taxes in the nature of an excise upon the sales or transfers of personal or real property or the use thereof, or the rendering or furnishing of services.

Class D cities. All cities in the state of Kansas located in Cowley, Ellis, Ellsworth, Finney, Harper, Johnson, Labette, Lyon, Montgomery, Osage, Reno; *or* Woodson ~~or Wyandotte~~ county or in both Riley and Pottawatomie counties which have the authority to levy and collect excise taxes or taxes in the nature of an excise upon the sales or transfers of personal or real property or the use thereof, or the rendering or furnishing of services.”;

And by renumbering sections accordingly;

On page 8, in line 18, by striking “or” the second time it appears; in line 21, by striking the period and inserting “; or”; after line 21, by inserting the following:

“(k) the board of county commissioners of Wyandotte county, for the purpose of paragraph (14) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25% or 1.5%.”;

On page 12, in line 6, after “12-187,” by inserting “12-188,”;

On page 1, in the title, in line 10, after “Douglas” by inserting “and Wyandotte”; also in line 10, after “12-187,” by inserting “12-188,”

The motion failed and the amendment was rejected.

The motion to recommend **SB 313** favorably for passage failed, and the bill remains on the calendar under the heading of General Orders.

On motion of Senator Oleen the Senate adjourned until 8:30 a.m., Friday, February 27, 2004.

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

PAT SAVILLE, *Secretary of the Senate.*

