

# Journal of the Senate

FIFTIETH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, March 22, 2005—2:30 p.m.

The Senate was called to order by President Stephen Morris.

The roll was called with thirty-nine senators present.

Senator Allen was excused.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

The public still has a problem understanding why it takes so long to pass major legislation. Perhaps it would be good for us to see just how diverse the Senate is.

There are 30 Republicans and 10 Democrats.

There are 27 men and 13 women.

Their average age is 50. But 26 are over 50, 12 are under 50 and two are about 50.

There are 10 farmers and/or ranchers, 6 attorneys, 2 physicians, 2 electricians, and the rest are involved in 19 other vocations.

There are 24 from urban areas, and 16 are from small towns or rural locations.

There are two African-Americans and at least one proud Irish-American.

Should we really expect a young lady attorney from an urban area to always have the same viewpoint as a senior male farmer?

Should we expect a young male African-American Democrat from an urban area to always vote the same way as a lady Caucasian Republican from a rural setting?

And each of these Senators, regardless of their race, vocation, gender, age, or location represent approximately 60,000 Kansans.

As I've quoted Winston Churchill before, O God, "Democracy is the worst form of government except for all the rest."

And I think I speak for most Kansans when I thank You for the three branches of our government which, incidentally, our founders learned from Your biblical models.

I pray in the Name of Jesus Christ,

AMEN

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **SB 305**; **HB 2331**.

Judiciary: **HB 2231**.

Public Health and Welfare: **HB 2496**, **HB 2503**.

Ways and Means: **HB 2480**, **HB 2481**, **HB 2482**.

**MESSAGE FROM THE GOVERNOR**

March 22, 2005

*To the Senate of the State of Kansas:*

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

KATHLEEN SEBELIUS  
Governor

*Executive Director, Kansas Racing and Gaming Commission, Stephen L. Martino* pursuant to the authority vested in me by K.S.A. 74-8803, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

*Member, Kansas Racing and Gaming Commission, Devoe G. Treadwell* pursuant to the authority vested in me by K.S.A. 74-8803, effective upon the date of confirmation by the Senate, to serve a term of four years.

*Member, Kansas Racing and Gaming Commission, Kristine A.K. McKechnie* pursuant to the authority vested in me by K.S.A. 74-8803, effective upon the date of confirmation by the Senate, to serve a term of four years.

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2264, HB 2485.**

Also, passage of **SB 8, SB 58, SB 102, as amended.**

The House nonconcur in Senate amendments to **Senate Substitute for HB 2016**, requests a conference and has appointed Representatives Loyd, Owens and Davis as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2122**, requests a conference and has appointed Representatives Loyd, Owens and Davis as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2262** requests a conference and has appointed Representatives O'Neal, Jack and Pauls as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2314**, requests a conference and has appointed Representatives Loyd, Owens and Davis as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2387**, requests a conference and has appointed Representatives Loyd, Owens and Davis as conferees on the part of the House.

The House concurred in Senate amendments to **HB 2347.**

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2264, HB 2485** were thereupon introduced and read by title.

**CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR**

Senator Teichman moved the Senate concur in house amendments to **SB 152.**

**SB 152**, An act relating to district hospitals; relating to the sale of property; providing a limited authority to mortgage property; amending K.S.A. 80-2520 and repealing the existing section.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The Senate concurred.

Senator Brungardt moved the Senate concur in house amendments to **H Sub SB 153.**

**H Sub for SB 153**, An act concerning state-tribal gaming compacts; amending K.S.A. 46-2302 and repealing the existing section.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Haley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Francisco, Hensley.

Absent or Not Voting: Allen.

The Senate concurred.

On motion of Senator Barnett the Senate nonconcurred in the House amendments to **SB 91** and requested a conference committee be appointed.

The President appointed Senators Barnett, V. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Umbarger the Senate nonconcurred in the House amendments to **SB 266** and requested a conference committee be appointed.

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

#### **ORIGINAL MOTION**

On motion of Senator Bruce, the Senate acceded to the request of the House for a conference on **S Sub for HB 2016**.

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

On motion of Senator Barnett, the Senate acceded to the request of the House for a conference on **HB 2077**.

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

On motion of Senator Bruce, the Senate acceded to the request of the House for a conference on **HB 2109**.

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

On motion of Senator Bruce, the Senate acceded to the request of the House for a conference on **HB 2122**.

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

On motion of Senator Bruce, the Senate acceded to the request of the House for a conference on **HB 2262**.

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

On motion of Senator Bruce, the Senate acceded to the request of the House for a conference on **HB 2314**.

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

On motion of Senator Bruce, the Senate acceded to the request of the House for a conference on **HB 2387**.

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

#### **FINAL ACTION ON CONSENT CALENDAR**

**HB 2040** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

**HB 2040**, An act concerning sales taxation; relating to exemptions; repair of hearing aids; amending K.S.A. 2004 Supp. 79-3606 and repealing the existing section.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**SB 267**, An act concerning alcoholic liquors; amending K.S.A. 41-308a 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: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed, as amended.

**SB 274**, An act concerning alcoholic liquor; amending K.S.A. 41-308b and 41-310 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: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed, as amended.

**HB 2102**, An act concerning sales taxation; relating to exemptions; amending K.S.A. 2004 Supp. 74-50,115 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: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed.

**HB 2141**, An act concerning workers compensation; relating to burden of proof for admission of chemical test result into evidence; amending K.S.A. 44-501 and repealing the existing section, was considered on final action.

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

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Huelskamp, Jordan, Journey, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Barone, Betts, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Reitz.

Absent or Not Voting: Allen.

The bill passed.

#### EXPLANATION OF VOTE

MR. PRESIDENT: Our workers compensations system is a bargain between employers and

employees. Employers pay 100% of health care costs for all work place injuries with very few exceptions. One of these exceptions prevents employers from paying health care costs when an employee is intoxicated or impaired by drugs, and that impairment contributes to the accident.

Safeguards in the law make sure someone who deserves workers compensation benefits receives them.

Over-the-counter medication and prescription drugs do NOT disqualify an employee. The drug testing standards mirror federal regulations to ensure false positives cannot occur from harmless activities like eating poppy seed muffins.

In addition, employers must not only prove an employee was impaired, they must prove the impairment contributed to the accident.

The only thing **HB 2141** does is return some common sense to the probable cause standard an employer must meet in order to admit tests that prove the injured employee was intoxicated.

The only people inconvenienced by this bill are people injured on the job while drinking or using illegal narcotics. The people this bill protects are the clean and sober Kansas workers and businesses who pay for unjust claims.

I'm voting to keep the Kansas workplace clean and sober.—TERRY BRUCE

Senators Apple, Brownlee, Jordan, Peterson, Wilson and Wysong request the record to show they concur with the Explanation of Vote offered by Senator Bruce on **HB 2141**.

MR. PRESIDENT: The US constitution provides that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State *deprive* any person of life, liberty, or property, without *due process* of law; nor deny to any person within its *jurisdiction* the equal protection of the laws.

Procedural due process causes us to ask: Is a law too vague? Is it applied fairly to all? Does a law presume guilt? A law must be clear, fair and have a presumption of innocence to comply with procedural due process.

The "why" is substantive due process. When an unreasonable law is passed, substantive due process can cause the law to be unconstitutional. Generally, due process guarantees the following:

- Right to be heard in one's own defense
- Laws must be written so that a reasonable person can understand what is prescribed behavior
- Property rights may be taken by the government only for the public purposes

**HB 2141** denies workers' procedural and substantive due process and I vote NO.—Greta Goodwin

Senator Francisco requests the record to show she concurs with the Explanation of Vote offered by Senator Goodwin on **HB 2141**.

MR. PRESIDENT: This body has been assured - and, therefore, the legislative intent is — that current law, and this bill, require that:

- *Impairment* must be proven - whether be conclusive presumption or otherwise - before benefits will be denied;
- *Contribution* to the *accident* must be independently proven and only after impairment is proven;
- *Injury, disability* or *death* has the equivalent meaning as accident, and is not intended to mean more than, accident as stated at page 3, line 33.
- *Impairment* that is *conclusively presumed* merely lessens the employer's burden of proving employee *impairment* **but does not lessen the employer's burden** to prove that such impairment *contributed* to the *accident*;
- A greater burden to prove *contribution* is created at new section (d)(3)(C) because the *presumed impairment* is not specified as presumed impairment by a specific substance.

Despite these assurances and the bodies' legislative intent, I vote no on **HB 2141** because it is an unconstitutional taking of Kansas workers' property rights without due process of law.—Anthony Hensley

Senator Kelly requests the record to show she concurs with the Explanation of Vote offered by Senator Hensley on **HB 2141**.

**HB 2168**, An act concerning the uniform commercial code; relating to negotiable instruments and bank deposits; concerning a demand draft; amending K.S.A. 84-3-103, 84-3-104, 84-3-309, 84-3-416, 84-3-417, 84-4-207 and 84-4-208 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: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed.

**HB 2180**, An act concerning crimes and punishment; relating to inherently dangerous felonies; amending K.S.A. 2004 Supp. 21-3404 and 21-3436 and repealing the existing section, 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: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Haley.

Absent or Not Voting: Allen.

The bill passed.

**HB 2247**, An act concerning school records of certain pupils; relating to the transfer thereof; imposing duties upon the secretary of the department of social and rehabilitation services, 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: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed, as amended.

**HB 2252**, An act concerning school districts; relating to the election of the governing body thereof; amending K.S.A. 25-2017a, 25-2022, 25-2023, 72-6769, 72-7902 and 72-8706 and K.S.A. 2004 Supp. 72-8116, 72-8118a, 72-8125, 72-8145, 72-8202a and 72-8205 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 10, Nays 29, Present and Passing 0, Absent or Not Voting 1.

Yeas: Barone, Brownlee, Brungardt, Hensley, Jordan, O'Connor, Palmer, Petersen, Schodorf, Wagle.

Nays: Apple, Barnett, Betts, Bruce, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Huelskamp, Journey, Kelly, Lee, McGinn, Morris, Ostmeyer, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Absent or Not Voting: Allen.

A constitutional majority having failed to vote in favor of the bill, **HB 2252** did not pass.

**HB 2265**, An act concerning economic development; concerning qualified manufacturers of cellulose film; Kansas downtown redevelopment act; amending K.S.A. 2004 Supp. 12-17, 122 and 12-17, 125 and repealing the existing sections, was considered on final action.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wilson, Wysong.

Present and Passing: Teichman.

Absent or Not Voting: Allen.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote AYE on **HB 2265**.

The Legislature always talks about the importance of fostering a healthy business environment that attracts new employers to our state.

Equally important is an environment that retains current employers. We cannot overlook current Kansas businesses that provide numerous resources to our local and state economic development.

A package of economic incentives proposed by the City of Topeka, Shawnee County, Greater Topeka Chamber of Commerce and the State of Kansas has been coupled with **HB 2265** that would provide for Innovia Films to keep their Tecumseh, Kansas, plant in full operation with the future opportunity to expand.

This plant is in the district I represent and I am proud of the opportunity today to keep Kansas jobs in Kansas—ANTHONY HENSLEY

**HB 2268**, An act concerning the uniform interstate enforcement of domestic violence protection orders act; amending K.S.A. 2004 Supp. 21-3843 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: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed, as amended.

**HB 2390**, An act concerning oil and gas; relating to the taxation thereof; creating the oil and gas valuation depletion trust fund and providing for distribution of moneys therefrom; also relating to drilling wells; raising financial assurance responsibilities; amending K.S.A. 2004 Supp. 55-155 and 79-4227 and repealing the existing sections, was considered on final action.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Pyle.

Absent or Not Voting: Allen.

The bill passed, as amended.

**HB 2461**, An act concerning states of emergency; authorizing the division of emergency management to declare a state of emergency for purposes of hours of service of drivers of utility service vehicles under certain circumstances, 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: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.  
The bill passed.

#### INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

The Committee on Elections and Local Government introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1837—

A RESOLUTION requesting a report from the secretary of state on the costs, benefits and effectiveness related to implementing voters verified paper trail alternatives for electronic voting systems in the state of Kansas to be in compliance with the help America vote act of 2002.

WHEREAS, Voting is a fundamental right of every American citizen and the foundation of our democracy; and

WHEREAS, Voting should not be an act of faith on the part of Kansas citizens but an act of record which can be checked and corrected by voters, as well as counted on a vote-by-vote basis in every situation in which a voting recount is necessary; and

WHEREAS, It is a right of every citizen to feel secure that such citizen's voting choices are recorded accurately; and

WHEREAS, Certainty of accurate vote-tallying is necessary to protect the value and importance of voting to Kansas voters; and

WHEREAS, Current electronic voting systems may fail to protect the integrity of our elections against user and operator errors and irregularities, and fail to protect against faulty election results caused by computer malfunctions, faulty software or hardware imperfections; and

WHEREAS, Electronic voting without a voter verified paper trail does not guarantee voters that their votes were properly entered into the computer voting system, and fails to allow for vote-by-vote election recounts in case of perceived vote-tallying errors; and

WHEREAS, The electronic voting machines, which will be purchased by the state for Kansas voting precincts in order to comply with the help America vote act of 2002, may replace traditional paper ballots and optical scan ballots which provided voter verified paper trails; and

WHEREAS, Electronic voting machines that do not produce a voter-verified paper trail make errors and irregularities occurring during the voting process and are difficult or impossible to discover; and

WHEREAS, The removal of voter verified paper trails from Kansas voting processes endangers voter confidence and the guarantee of security in the electoral process which assures that votes are correctly recorded: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That the secretary of state shall prepare a report concerning the feasibility of implementing electronic voting systems with voter verified paper trail capabilities in compliance with the help America vote act of 2002; and

*Be it further resolved:* That the secretary of state's report shall also consider the costs, availability and efficiency of the alternative voter verified paper trail system options that could be implemented in the state of Kansas; and

*Be it further resolved:* That the secretary of state shall provide a copy of its report to the President of the Senate and the chairperson of the Senate Elections and Local Government Committee on or before January 17, 2006; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to the Secretary of State.

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

SENATE RESOLUTION No. 1838—

A RESOLUTION congratulating and commending the 2004 Hanston High School football team.

WHEREAS, The Hanston High School Elks defeated the Sylvan Grove Mustangs 56 to 6 at Russell on November 20, 2004, to become the 2004 8-man Division II state football

champions. The team finished the season with a record of 13 wins and zero losses with 11 of the games being terminated by the 45 point mercy rule; and

WHEREAS, The Hanston Elks have won a total of six state championships in football out of nine appearances in the championship game. Two thousand four was the seventh consecutive year the Hanston team played in the state championship game. This year they outscored their opponents 688 to 120. During the past seven seasons the team has a record of 85 wins to 3 losses with the only losses being at state championship games. Since the team's first championship in 1989 the team has a record of 159 wins and 26 losses, and they have won their district 14 times, bi-district 13 times, regional 9 times, sub-state 9 times and the state championship 6 times; and

WHEREAS, Hanston High School football coach Jerry Slaton has coached his teams to a 234-73 record over 29 seasons. Coach Slaton's overall career record stands at 250-79, with a winning percentage of 76%. The Hanston High School football teams coached by Jerry Slaton have a play-off record of 40-12 (77%), and teams coached by Jerry Slaton have gone undefeated five times during his tenure: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the 2004 Hanston High School football team and head coach Jerry Slaton upon being the 2004 8-man Division II state football champions; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to Gary Walker, Principal, Hanston High School, P.O. Box 219, Hanston, KS 67849-0219.

On emergency motion of Senator Lee **SR 1838** was adopted unanimously.

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

SENATE RESOLUTION No. 1839—

A RESOLUTION congratulating and commending the Hanston High School boys basketball team and Coach Oliver Salmans for winning the 2005 Class 1A State Basketball Championship.

WHEREAS, The Hanston High School boys basketball team won the 2005 Kansas State High School Activities Association Class 1A State Basketball Championship with a thrilling 67 to 60 victory over Lebo High School in the state championship game at Hays on March 12; and

WHEREAS, The Hanston High School "Elks" basketball team finished the season with a record of 24 wins and 4 losses; and

WHEREAS, This year's championship was the second consecutive title for the team. The seven seniors on the team have played in the state tournament every year, and they were a part of the school's success in winning three championships in eight-man football; and

WHEREAS, The team members were: Simeon Seller, Eric Dvorak, Gilbert Thayer, Drew Holmes, Andy Thayer, Levi Salmans, Joe Broz, Austin Rogers, Ben Wilkens, Darren Rogers, Dwayne Doyle and Phillip Broz. The head coach was Oliver Salmans and the assistant coach was Travis Torkelson; and

WHEREAS, The members of this outstanding basketball team have received statewide recognition for their fine sportsmanship and athletic abilities; and

WHEREAS, The success of this team was due to its excellent teamwork, strong competitive spirit and determination to win. The team also had the enthusiastic support of the school's administrators, the faculty, the students, the players' parents and many area citizens: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That the Hanston High School boys basketball team and Coach Salmans be congratulated and commended for winning the 2005 Kansas State High School Activities Association Class 1A State Basketball Championship; and

*Be it further resolved:* That the Secretary of the Senate provide 15 enrolled copies of this resolution to Jerry Slaton, Principal, Hanston High School, P.O. Box 219, Hanston, KS 67849-0219.

On emergency motion of Senator Lee **SR 1839** was adopted unanimously.

Team members were acknowledged in the gallery and were congratulated.

**REPORT ON ENGROSSED BILLS**

**SB 267, SB 274** reported correctly engrossed March 22, 2005.

**REPORT ON ENROLLED BILLS**

**SB 113** reported correctly enrolled, properly signed and presented to the Governor on March 22, 2005.

**SR 1833, SR 1834** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 22, 2005.

**SCR 1610** reported correctly enrolled, properly signed and presented to the Secretary of State on March 22, 2005.

**REPORTS OF STANDING COMMITTEES**

Committee on **Agriculture** recommends **HB 2053**, as amended by House Committee, be amended on page 1, in line 29, by inserting "fees," before "costs"; in line 31, after "such" by inserting "fees,,"; also in line 31, by striking "and" and inserting "or"; in line 36, after "such" by inserting "fees,,"; also in line 36, by striking "and" and inserting "or"; in line 39, after "such" by inserting "fees,,"; also in line 39, by striking "and" and inserting "or"; in line 41, by striking "and" and inserting ", costs or";

On page 2, in line 2, after "fees" by inserting ", costs or expenses"; in line 3, after "fees" by inserting ", costs or expenses"; in line 5, after "for" by inserting "the cost of taking into custody, keeping and selling";

On page 3, in line 30, before the period, by inserting "to the extent authorized by federal requirements"; in line 40, after "provided" by inserting "or obtained"; in line 42, after the period, by inserting "Intentional disclosure of such data or records shall be a class C nonperson misdemeanor.";

On page 4, in line 21, by striking "the definition of premises" and inserting "the development of premises registration, animal identification and tracking"; also in line 21, by striking "the program" and inserting "such systems"; and the bill be passed as amended.

Committee on **Assessment and Taxation** recommends **SB 295; HB 2222**, as amended by House Committee; **HB 2288** be passed.

Also, **HB 2308** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Commerce** recommends **HB 2299**, as amended by House Committee, be amended on page 2, in line 22, by striking "nine" and inserting "11"; in line 29, by striking "three" and inserting "five"; in line 31, by striking "one shall be a representative" and inserting "two shall be representatives"; in line 32, by striking "one shall"; in line 33, by striking "be a representative" and inserting "two shall be representatives";

On page 3, after line 28, by inserting the following:

"Sec. 2. K.S.A. 2004 Supp. 44-596 is hereby amended to read as follows: 44-596. (a) There is hereby established the workers compensation advisory council. The advisory council shall be composed of the director of workers compensation, or the director's designee from the division of workers compensation, ~~a representative of the insurance industry appointed by the commissioner of insurance, and 10 who shall serve ex officio and seven~~ members who shall be appointed by the secretary of labor in accordance with this section. ~~Five~~ Members of the advisory council shall be broadly representative of employers *and employees* throughout Kansas that are under the workers compensation act and shall be appointed as follows: one member shall be appointed from a list of nominees submitted to by the secretary of labor by the Kansas chamber of commerce and industry and four members shall be appointed from nominees submitted to the secretary of labor by employers or other representatives of employers or other employer organizations. Five members of the advisory council shall be broadly representative of employees throughout Kansas that are under the workers compensation act and shall be appointed as follows: One member shall be appointed from a list of nominees submitted to the secretary of labor by the Kansas A.F.L.-C.I.O. and four members shall be appointed from nominees submitted to the secretary of labor by employees or other representatives of employees or other employee organizations. The representative of the insurance industry shall be knowledgeable of insurance underwriting practices. *Two members shall be appointed by the president of the senate, one member shall*

*be appointed by the minority leader of the senate, two members shall be appointed by the speaker of the house of representatives and one member shall be appointed by the minority leader of the house of representatives.* The director of workers compensation ~~and the representative of the insurance industry, the chairpersons and ranking minority members of the senate commerce committee and the house commerce and labor committee~~ shall be nonvoting members of the advisory council.

(b) Each member of the advisory council shall serve at the pleasure of the ~~secretary of labor~~ legislature. Any vacancy on the advisory council shall be filled by nomination and appointment in the same manner as the original appointment of the member creating the vacancy.

(c) The advisory council shall study the workers compensation act, proposed amendments to the act and such other matters relating thereto that may be recommended by the secretary of labor ~~or~~, the director of workers compensation *or the legislature* and shall advise the secretary ~~and~~, the director *and the legislature* thereon. The advisory council shall also review and report its recommendations on any legislative bill amending, supplementing or affecting the workers compensation act or rules and regulations adopted thereunder or affecting the administration of such act or rules and regulations, which is introduced in the legislature and which is requested to be reviewed and reported on to a standing committee of either house of the legislature to which the bill is currently referred, upon the request of the chairperson of such committee.

(d) The advisory council shall *organize by August 1, 2005 and annually thereafter* by electing a chairperson and a vice-chairperson and shall meet upon the call of the chairperson. All actions of the advisory council adopting recommendations regarding the workers compensation act or any other matter referred to the advisory committee under subsection (c) shall be by ~~motion adopted by the affirmative vote in open meeting of four of the five voting members who are appointed as representative of employers and four of the five voting members who are appointed as representative of employees. All other actions of the advisory council shall be by motion adopted by the affirmative vote of at least six voting members a majority of the members present in open meeting.~~

(e) The advisory council, in accordance with K.S.A. 74-4319, and amendments thereto, may recess for a closed or executive meeting ~~of the members representing employers or of the members representing employees, or of both such groups of members meeting separately;~~ to separately discuss the matters being studied by the advisory council, except that no binding action shall be taken during any such closed or executive meeting.

(f) The members of the advisory council shall serve without compensation, ~~but~~ *except that legislators*, when attending meetings of the advisory commission, or subcommittee meetings thereof authorized by the advisory commission, shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(g) In addition to other matters for study prescribed pursuant to this section, the advisory council shall review the following:

- (1) Competitive state workers compensation funds, including small business competitive funds;
- (2) effectiveness and cost of safety programs;
- (3) safety-based insurance premium rate discounts;
- (4) fees for attorneys representing all parties in workers compensation claims; and
- (5) group-funded self-insurance pools for small businesses.

Each of the studies prescribed by this subsection shall be reviewed and reported to the standing committees of the senate and house of representatives having workers compensation subject matter jurisdiction, ~~except that the study of competitive state workers compensation funds shall be completed and reported to the legislative coordinating council not later than December 15, 1993.~~

*(h) The provisions of this act regarding the advisory council shall expire on and after July 1, 2007.”;*

And by renumbering the remaining sections accordingly;

Also on page 3, in line 29, by striking “is” and inserting “and 44-596 are”;

In the title, in line 11, before the semicolon by inserting “and advisory council”; also in line 11, after “44-510i” by inserting “and 44-596”; in line 12, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Education** recommends **HB 2331**, as amended by House Committee, be amended on page 4, in line 28, before the first “The”, by inserting “(a)”; in line 32, before the “The”, by inserting “(b)”; after line 36, by inserting:

“(c) The state board may apply to participate in any pilot program authorized by the federal law and, if approved, may participate in any such program.”;

On page 22, in line 29, by striking all after “annually”; by striking all in lines 30 through 32; in line 33, by striking “(B)” and inserting “thereafter: (A) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and where appropriate, independent living skills; and (B) the transition services, including appropriate courses of study, needed to assist the child in reaching the stated postsecondary goals; and (C)”;

On page 26, in line 38, by striking the second “the” and inserting “an”; in line 41, by striking the first “the” and inserting “an”; in line 43, by striking the second “the” and inserting “an”; and the bill be passed as amended.

Committee on **Elections and Local Government** recommends **HB 2139**, as amended by House Committee, be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Also, **HB 2018** be amended on page 1, in line 36, by striking “or part”; also in line 36, by striking “or” where it appears for the second time and inserting “and”;

On page 2, in line 28, by striking “, or both”;

On page 3, in line 6, by striking “and”; in line 9, following “districts” by inserting “; and (3) a copy of the memorandum of understanding and a map showing the boundaries of the consolidated rural water district shall be filed with the chief engineer and the secretary of state”;

On page 4, following line 19, by inserting the following:

“Sec. 3. K.S.A. 2004 Supp. 82a-736 is hereby amended to read as follows: 82a-736. (a) As used in this section:

(1) “Base average usage” means: (A) The average amount of water actually used for a beneficial use under a groundwater water right during calendar years ~~1996 through 2000~~ *1992 through 2002*, excluding any amount used in any such year in excess of the amount authorized by such water right; or (B) if the holder of a groundwater water right shows to the satisfaction of the chief engineer that the holder has implemented significant water conservation measures during calendar years ~~1996 through 2000~~ *1992 through 2002*, the average amount of water actually used for a beneficial use under such right during the five calendar years immediately before the calendar year when such measures were implemented, excluding any amount used in any such year in excess of the amount authorized by such water right.

(2) “Chief engineer” means the chief engineer of the division of water resources of the department of agriculture.

(b) Any holder of a groundwater water right which has not been deposited or placed in a safe deposit account in a chartered water bank may establish a flex account where the holder may deposit, in advance, water from such water right for any five consecutive calendar years, subject to the following:

(1) The water right must be vested or shall have been issued a certificate of appropriation;

(2) the withdrawal of water pursuant to the water right shall be properly and adequately metered;

(3) the water right shall not have been abandoned and shall be in good standing, based on past water usage and compliance with the terms of the holder’s permit and all applicable provisions of law and orders of the chief engineer; and

(4) the amount of water that shall be deposited in the account shall ~~be not exceed~~ *not exceed* 90% of the amount of the holder’s base average usage times five.

(c) The chief engineer shall implement a program providing for the issuance of term permits to holders of groundwater water rights who have established flex accounts in accordance with this section. Such term permits shall authorize the use of water in a flex

account at any time during the five consecutive calendar years for which the application for the term permit is made, without annual limits on such use. Application for any such term permit shall be filed not later than October 10, of the year preceding the first year for which the application is made.

(d) Term permits provided for by this section shall be subject to the following:

(1) A separate term permit shall be required for each point of diversion.

(2) The quantity of water authorized for diversion shall be limited to the amount deposited pursuant to subsection (b)(4).

(3) The authorized place of use for the term permit shall not be greater than that authorized by the existing groundwater right.

(4) The chief engineer may establish, by rules and regulations, criteria for such term permits when the water right authorizes multiple points of diversion or multiple water rights authorize a single point of diversion or overlapping places of use.

(5) Except as explicitly provided for by this section, such term permits shall be subject to all provisions of the Kansas water appropriation act, and rules and regulations adopted under such act, and nothing in this section shall authorize impairment of any vested right or prior appropriation right by the exercise of such term permit.

(e) All costs of administration of this section shall be paid from fees for term permits provided for by this section. Any appropriation or transfer from any fund other than the water appropriation certification fund for the purpose of paying such costs shall be repaid to the fund from which such appropriation or transfer is made. At the time of repayment, the secretary of agriculture shall certify to the director of accounts and reports the amount to be repaid and the fund to be repaid. Upon receipt of such certification, the director of accounts and reports shall promptly transfer the amount certified to the specified fund.

(f) The chief engineer shall submit a written report on the implementation of this section to the house standing committee on environment and the senate standing committee on natural resources on or before February 1 of each year.

(g) This section shall be part of and supplemental to the Kansas water appropriation act.”; By renumbering sections accordingly;

Also on page 4, in line 20, by striking “is” and inserting “and 82a-736 are”;

In the title, in line 9, by striking “certain rural water districts;” and inserting “water; relating to”; in line 10, by striking “such” and inserting “certain rural water”; in line 13, following the semicolon by inserting “relating to multi-year flex accounts for deposit of certain water under a water right;”; also in line 13, following “82a-647” by inserting “and 82a-736”; in line 14, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 298; HB 2309**, as amended by House Committee of the Whole, be passed.

Committee on **Financial Institutions and Insurance** recommends **HB 2138** be passed.

Also, **HB 2172** be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2172,” as follows:

“SENATE Substitute for HOUSE BILL No. 2172

By Committee on Financial Institutions and Insurance

“AN ACT relating to the office of the state bank commissioner; concerning the regulation of consumer and mortgage lending; amending K.S.A. 9-2203, 9-2205, 9-2208, 9-2209, 9-2211, 9-2216, 9-2218, 16a-3-205, 16a-5-103, 16a-5-111 and 16a-6-201 and K.S.A. 2004 Supp. 16a-2-103, 16a-2-302, 16a-2-303, 16a-2-304, 16a-2-404, 16a-3-304, 16a-3-308a, 16a-6-104, 16a-6-108 and 16a-6-203 and repealing the existing sections.”; and the substitute bill be passed.

**HB 2203** be amended on page 4, following line 22, by inserting:

”Sec. 2. K.S.A. 40-246d is hereby amended to read as follows: 40-246d. The commissioner may, in the manner prescribed by law, revoke or suspend the license of any agent issued pursuant to ~~sections 40-241 and 40-246~~ either K.S.A. 40-241, and amendments thereto, or K.S.A. 2004 Supp. 40-4906, and amendments thereto, of the Kansas Statutes Annotated when such agent shall engage in any transaction permitted only to licensees under the provisions of K.S.A. 40-246b, and amendments thereto, without first obtaining the license as required by K.S.A. 40-246b and amendments thereto.”;

By renumbering the remaining sections accordingly;  
Also on page 4, in line 23, by striking “40-19c06 is” and inserting “40-246d and 40-19c06 are”;

In the title, in line 9, following “concerning” by inserting “insurance; pertaining to”; in line 10, following the semicolon, by inserting “pertaining to the revocation of insurance agent licenses.”; in line 11, following “K.S.A.” by inserting “40-246d and”; also in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

**HB 2357**, as amended by House Committee, be amended on page 2, in line 29, following the period, by inserting “Nothing in this act shall prohibit the division of post audit from having access to all insurance compliance self-evaluative audit documents in the custody of the commissioner.”; in line 39, preceding the period, by inserting “; or

(3) even if subject to the privilege, the material shows evidence of noncompliance with applicable laws and regulations and appropriate efforts to achieve compliance with such laws or regulations were not promptly initiated and pursued with reasonable diligence upon discovery of noncompliance”;

On page 4, in line 38, preceding “shall” by inserting “shall not affect any other privilege and”; in line 40, by striking all preceding “collected”;

On page 5, in line 17, following the period, by inserting “Once initiated an audit shall be completed within a reasonable period of time. Nothing in this section shall be construed to authorize uninterrupted or continuous auditing.”; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2380** be passed.

Also, **HB 2385**, as amended by House Committee, be amended on page 1, in line 20, by striking all after “evidence”; in line 21, by striking all before the period; also in line 21, after the period by inserting “Such photographs may be admitted into evidence if they meet the foundation requirements under the rules of evidence.”; and the bill be passed as amended.

**Substitute for HB 2457** be amended on page 4, after line 10, by inserting the following:

“Sec. 2. K.S.A. 2004 Supp. 60-2103 is hereby amended to read as follows: 60-2103. (a) *When and how taken.* When an appeal is permitted by law from a district court to an appellate court, the time within which an appeal may be taken shall be 30 days from the entry of the judgment, as provided by K.S.A. 60-258, and amendments thereto, except that upon a showing of excusable neglect based on a failure of a party to learn of the entry of judgment the district court in any action may extend the time for appeal not exceeding 30 days from the expiration of the original time herein prescribed. The running of the time for appeal is terminated by a timely motion made pursuant to any of the rules hereinafter enumerated, and the full time for appeal fixed in this subsection commences to run and is to be computed from the entry of any of the following orders made upon a timely motion under such rules: Granting or denying a motion for judgment under subsection (b) of K.S.A. 60-250, and amendments thereto; or granting or denying a motion under subsection (b) of K.S.A. 60-252, and amendments thereto, to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted; or granting or denying a motion under K.S.A. 60-259, and amendments thereto, to alter or amend the judgment; or denying a motion for new trial under K.S.A. 60-259, and amendments thereto.

A party may appeal from a judgment by filing with the clerk of the district court a notice of appeal. Failure of the appellant to take any of the further steps to secure the review of the judgment appealed from does not affect the validity of the appeal, but is ground only for such remedies as are specified in this chapter, or when no remedy is specified, for such action as the appellate court having jurisdiction over the appeal deems appropriate, which may include dismissal of the appeal. If the record on appeal has not been filed with the appellate court, the parties, with the approval of the district court, may dismiss the appeal by stipulation filed in the district court, or that court may dismiss the appeal upon motion and notice by the appellant.

(b) *Notice of appeal.* The notice of appeal shall specify the parties taking the appeal; shall designate the judgment or part thereof appealed from, and shall name the appellate court to which the appeal is taken. The appealing party shall cause notice of the appeal to be served upon all other parties to the judgment as provided in K.S.A. 60-205, and amendments thereto, but such party’s failure so to do does not affect the validity of the appeal.

(c) *Security for costs.* Security for the costs on appeal shall be given in such sum and manner as shall be prescribed by a general rule of the supreme court unless the appellate court shall make a different order applicable to a particular case.

(d) *Supersedeas bond.* (1) Whenever an appellant entitled thereto desires a stay on appeal, such appellant may present to the district court for its approval a supersedeas bond which shall have such surety or sureties as the court requires. *Subject to paragraph (2)*, the bond shall be conditioned for the satisfaction of the judgment in full together with costs, interest, and damages for delay, if for any reason the appeal is dismissed, or if the judgment is affirmed, and to satisfy in full such modification of the judgment such costs, interest, and damages as the appellate court may adjudge and award. When the judgment is for the recovery of money not otherwise secured, the amount of the bond shall be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied, costs on the appeal, interest, and damages for delay, unless the court after notice and hearing and for good cause shown fixes a different amount or orders security other than the bond. When the judgment determines the disposition of the property in controversy as in real actions, replevin, and actions to foreclose mortgages or when such property is in the custody of the sheriff or when the proceeds of such property or a bond for its value is in the custody or control of the court, the amount of the supersedeas bond shall be fixed after notice and hearing at such sum only as will secure the amount recovered for the use and detention of the property, the costs of the action, costs on appeal, interest, and damages for delay. When an order is made discharging, vacating, or modifying a provisional remedy, or modifying or dissolving an injunction, a party aggrieved thereby shall be entitled, upon application to the judge, to have the operation of such order suspended for a period of not to exceed 10 days on condition that, within such period of 10 days such party shall file a notice of appeal and obtain the approval of such supersedeas bond as is required under this section.

(2) (A) *Except as provided in paragraph (B), if an appellant appeals from any form of judgment based on any legal theory and seeks a stay of enforcement during the period of appeal:*

(i) *If the judgment exceeds \$1,000,000 in value but is less than \$100,000,000 in value, the supersedeas bond shall not exceed \$1,000,000; or*

(ii) *if the judgment equals or exceeds \$100,000,000 in value, the supersedeas bond shall not exceed \$25,000,000.*

(B) *The limitations on the amount of a supersedeas bond established by paragraph (A) shall not apply if:*

(i) *The appellee proves by a preponderance of the evidence that the appellant bringing the appeal is purposefully dissipating or diverting assets outside of the ordinary course of its business for the purpose of avoiding ultimate payment of the judgment, and in such event, the court may enter such orders as are necessary to stop the dissipation and diversion of assets, including a requirement that the appellant post a bond in the full amount of the judgment; or*

(ii) *the court makes a finding on the record that the appellant bringing the appeal is likely to disburse assets reasonably necessary to satisfy the judgment, and in such event, the court may increase the amount of such bond required not to exceed the full amount of the judgment.*

(C) *Nothing in this section shall be construed to prohibit a court from setting a supersedeas bond in a lower amount as may be otherwise required by law or for good cause shown.*

(D) *A bond shall not be found insufficient under any other provision of law due to limits imposed under this subsection.*

(e) *Failure to file or insufficiency of bond.* If a supersedeas bond is not filed within the time specified, or if the bond filed is found insufficient, and if the action is not yet docketed with the appellate court, a bond may be filed at such time before the action is so docketed as may be fixed by the district court. After the action is so docketed, application for leave to file a bond may be made only in the appellate court.

(f) *Judgment against surety.* By entering into a supersedeas bond given pursuant to subsections (c) and (d), the surety submits such surety's self to the jurisdiction of the court and irrevocably appoints the clerk of the court as such surety's agent upon whom any papers affecting such surety's liability on the bond may be served. Such surety's liability may be enforced on motion without the necessity of an independent action. The motion and such

notice of the motion as the judge prescribes may be served on the clerk of the court who shall forthwith mail copies to the surety if such surety's address is known.

(g) *Docketing record on appeal.* The record on appeal shall be filed and docketed with the appellate court at such time as the supreme court may prescribe by rule.

(h) *Cross-appeal.* When notice of appeal has been served in a case and the appellee desires to have a review of rulings and decisions of which such appellee complains, the appellee shall, within 20 days after the notice of appeal has been served upon such appellee and filed with the clerk of the trial court, give notice of such appellee's cross-appeal.

(i) *Intermediate rulings.* When an appeal or cross-appeal has been timely perfected, the fact that some ruling of which the appealing or cross-appealing party complains was made more than 30 days before filing of the notice of appeal shall not prevent a review of the ruling.

Sec. 3. K.S.A. 60-3004 is hereby amended to read as follows: 60-3004. (a) If the judgment debtor shows the district court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(b) If the judgment debtor shows the district court any ground upon which enforcement of a judgment of any district court of this state would be stayed, *including the ground that an appeal will be taken, is pending or the time for taking appeals is not yet expired*, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state *subject to the provisions of subsection (d) of K.S.A. 60-2103, and amendments thereto.*;

And by renumbering the remaining sections accordingly;

Also on page 4, in line 11, after "K.S.A." by inserting "60-3004 and K.S.A."; also in line 11, by striking "is" and inserting "and 60-2103 are";

In the title, in line 10, after "K.S.A." by inserting "60-3004 and K.S.A."; also in line 10, after "60-304" by inserting "and 60-2103"; also in line 10, by striking "section" and inserting "sections"; and the substitute bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2503**, as amended by House Committee of the Whole, be amended on page 3, in line 17, by striking "bi-annual" and inserting "bimanual"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2310**, as amended by House Committee, be amended on page 1, following line 14, by inserting:

"Section 1. K.S.A. 8-1,140 is hereby amended to read as follows: 8-1,140. (a) Any owner or lessee of one or more passenger vehicles ~~or~~, trucks of a gross weight of 20,000 pounds or less *or motorcycles*, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person was awarded a purple heart medal by the United States government for wounds received in military or naval combat against an armed enemy of the United States, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle ~~or~~, truck *or motorcycle* designating such person as a recipient of the purple heart medal. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto.

(b) Any recipient of the purple heart medal may make application for the distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with such proof as the director shall require that the applicant was a recipient of the purple heart medal. Application for the registration of a passenger vehicle ~~or~~, truck *or motorcycle* and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.”;

Also on page 1, in line 15, by striking “Section 1.” and inserting “Sec. 2.”;

On page 2, by striking all in lines 12 through 23; in line 24, by striking “(f)” and inserting “(e)”;

in line 25, by striking “or (e)”;

following line 26, by inserting:

“New Sec. 3. (a) Any person issued a license plate under the provisions of K.S.A. 8-1,140 or 8-1,146, and amendments thereto, upon submitting satisfactory proof to the director of vehicles in accordance with rules and regulations adopted by the secretary, that such person was awarded a silver star or bronze star medal by the United States government, may request a decal for each license plate indicating the person was a recipient of a silver star or bronze star medal.

(b) On and after January 1, 2006, any person issued a license plate under the provisions of K.S.A. 8-1,140 or 8-1,146, and amendments thereto, upon submitting satisfactory proof to the director of vehicles in accordance with rules and regulations adopted by the secretary, that such person was awarded a combat medical badge, army combat infantry badge, navy/marine corps combat action ribbon, army distinguished service cross, navy cross, air force cross or distinguished flying cross by the United States government, may request a decal for each license plate indicating the person was a recipient of a combat medical badge, army combat infantry badge, navy/marine corps combat action ribbon, army distinguished service cross, navy cross, air force cross or distinguished flying cross.

(c) A fee of \$2 shall be paid for each decal issued. The director of vehicles shall design such decals. Such decals shall be affixed to the license plate in the location required by the director. Not more than two decals authorized by this section shall be affixed to any one license plate.”;

By renumbering the remaining sections accordingly;

Also on page 2, in line 27, preceding “K.S.A.” by inserting “K.S.A. 8-1,140 and”; also in line 27, by striking “is” and inserting “are”; in line 28, by striking “Jan-”; in line 29, by striking all preceding “its”;

In the title, in line 10, by striking all following “concerning”; in line 11, by striking all preceding “K.S.A.” and inserting “certain license plates; providing for certain decals; amending K.S.A. 8-1,140 and”; in line 12, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2407**, as amended by House Committee, be passed.

Also, **HB 2045**, as amended by House Committee, be amended on page 1, in line 20, by striking all preceding “an” and inserting “with”; and the bill be passed as amended.

**HB 2263**, as amended by House Committee, be amended on page 6, in line 26, by striking “retail”; in line 29, by striking “retail”;

On page 10, in line 41, by striking “60” and inserting “120”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **HB 2037** be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2037,” as follows:

“SENATE Substitute for HOUSE BILL No. 2037

By Committee on Ways and Means

“AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; benefits and contributions; amending K.S.A. 10-813a, 74-4914, 74-4925b, 74-4925e, 74-4927a, 74-4932, 74-4952 and 76-746 and K.S.A. 2004 Supp. 20-2610a, 74-4902, 74-4918, 74-4920, 74-4925 and 74-4927 and repealing the existing sections.”;

and the substitute bill be passed.

Also, **HB 2477** be amended on page 1, in line 22, before “three” by inserting “and any dividend, profit, distribution, interest, redemption, payment on principal, or other sum held

or owing by a business association for or to its shareholder, certificate holder, member, bondholder, or other security holder,”; in line 23, after “split” by inserting “, redemption, payment on principal”; and the bill be passed as amended.

#### COMMITTEE OF THE WHOLE

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

On motion of Senator O'Connor the following report was adopted:

Recommended **SB 269, SB 275; HB 2125, HB 2160, HB 2205** be passed.

The committee report on **SB 257** recommending a **Sub SB 257** be adopted, and the substitute bill be passed.

**SB 84, SB 276, SB 288; HB 2082, HB 2155, HB 2326, HB 2336** be amended by adoption of the committee amendments, and the bills be passed as amended.

**Sub SB 260** be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Brownlee, on page 31, in line 30, by striking “74-8009” and inserting “74-8009a”;

In the title, in line 14, by striking “74-8009” and inserting “74-8009a”

Senator Brownlee further amended the bill, on page 5, in line 34, by striking “Kansas venture capital, Inc.,” and **Sub SB 260** be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Wednesday, March 23, 2005.

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

PAT SAVILLE, *Secretary of the Senate.*

