

Journal of the Senate

FIFTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 29, 2022, 10:00 a.m.

The Senate was called to order by President Ty Masterson.

The roll was called with 40 senators present.

President Masterson introduced guest, Pastor Jacob Heine, Faith Lutheran Church in Topeka, to deliver the Invocation:

Gracious God, Heavenly Father, through the Apostle Paul to the first letter to the church at Thessalonica (5:16-18), You tell us that Your will for us in Christ Jesus our Lord is that we rejoice always, pray constantly and give thanks in everything.

We admit that far too often we do not rejoice but grumble against You and each other when we do not get our way. We complain when others do not listen to us or do not agree with us. Forgive us for our grumbling and complaining. Help us to rejoice not in ourselves, but rather to rejoice in You and the work You have given us to do. May we once again appreciate the opportunities You have given us in these hallowed halls to work for the good of all people.

We also admit that we rarely seek You truly in prayer and for direction. We make our own decisions, based on our own thoughts and feelings. Forgive us for not seeking You first and only asking You to bless us after the fact. Today we pray that You would guide the decisions that are made in this chamber that they would follow Your ways, bring glory to You and serve our neighbors.

Further we admit that we rarely return to You to give thanks for all that You have done for us; house and home, food and drink, family and friends, our colleagues and the work we get to do on behalf of others. We are humbled to be trusted with good things from Your hand.

Above all Lord, we come to You to ask that you send your spirit of love, grace and mercy among those who serve and work in this place. May they know You and the love of God in Christ Jesus our Lord, in whom I pray. Amen.

The Pledge of Allegiance was led by President Masterson.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **Sub Sub HB 2512; HB 2596; Sub HB 2615; HB 2631.**

Federal and State Affairs: **HB 2340, HB 2502.**

Judiciary: **SCR 1624; HB 2495, HB 2697.**

Redistricting: **Sub HB 2737.**

Transportation: **Sub HB 2504; HB 2609.**

Ways and Means: **HB 2492, HB 2716.**

MESSAGE FROM THE HOUSE

The House nonconcurrs in Senate amendments to **HB 2377**, requests a conference and has appointed Representatives Patton, Ralph and Carmichael as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2537**, requests a conference and has appointed Representatives Patton, Ralph and Carmichael as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2299**, requests a conference and has appointed Representatives Patton, Ralph and Carmichael as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2489**, requests a conference and has appointed Representatives Kelly, Hoheisel and Xu as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **S Sub for HB 2448**, requests a conference and has appointed Representatives Tarwater, Long and Clayton as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2703**, requests a conference and has appointed Representatives Tarwater, Long and Clayton as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2476**, requests a conference and has appointed Representatives Proehl, Delperdang and Helgerson as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2595**, requests a conference and has appointed Representatives Proehl, Delperdang and Helgerson as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **Sub HB 2466**, requests a conference and has appointed Representatives Huebert, Thomas and Stogsdill as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HCR 5022**, requests a conference and has appointed Representatives Barker, Arnberger and Ruiz, L. as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **S Sub for HB 2056**, requests a conference and has appointed Representatives Barker, Arnberger and Miller as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2456**, requests a conference and has appointed Representatives Corbet, Ryckman and Carlin as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2239**, requests a conference and has appointed Representatives Smith, A., Highland and Gartner as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **S Sub for HB 2567**, requests a conference and has appointed Representatives Williams, Hoffman and Winn as conferees on the part of the House.

The House nonconcur in Senate amendments to **S Sub for HB 2597**, requests a conference and has appointed Representatives Smith, A., Highland and Gartner as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2559**, requests a conference and has appointed Representatives Rahjes, Smith, E. and Carlin as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2607**, requests a conference and has appointed Representatives Owens, Smith, E. and Highberger as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2564**, requests a conference and has appointed Representatives S. Johnson, Croft and Neighbor as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2510**, requests a conference and has appointed Representatives S. Johnson, Croft and Neighbor as conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Olson, the Senate acceded to the request of the House for a conference on **S Sub HB 2056**.

The President appointed Senators Olson, Hilderbrand and Faust-Goudeau as conferees on the part of the Senate.

On motion of Senator Peck, the Senate acceded to the request of the House for a conference on **S Sub HB 2239**.

The President appointed Senators Tyson, Peck and Holland as conferees on the part of the Senate.

On motion of Senator Warren, the Senate acceded to the request of the House for a conference on **HB 2299**.

The President appointed Senators Warren, Wilborn and Haley as conferees on the part of the Senate.

On motion of Senator Warren, the Senate acceded to the request of the House for a conference on **HB 2377**.

The President appointed Senators Warren, Wilborn and Haley as conferees on the part of the Senate.

On motion of Senator Hilderbrand, the Senate acceded to the request of the House for a conference on **S Sub HB 2448**.

The President appointed Senators Hilderbrand, Gossage and Pettey as conferees on the part of the Senate.

On motion of Senator Kerschen, the Senate acceded to the request of the House for a conference on **HB 2456**.

The President appointed Senators Kerschen, Ryckman and Ware as conferees on the part of the Senate.

On motion of Senator Baumgardner, the Senate acceded to the request of the House for a conference on **Sub HB 2466**.

The President appointed Senators Baumgardner, Erickson and Sykes as conferees on the part of the Senate.

On motion of Senator Petersen, the Senate acceded to the request of the House for a conference on **HB 2476**.

The President appointed Senators Petersen, Claeys and Hawk as conferees on the part of the Senate.

On motion of Senator Longbine, the Senate acceded to the request of the House for a conference on **HB 2489**.

The President appointed Senators Longbine, Fagg and Pittman as conferees on the part of the Senate.

On motion of Senator Longbine, the Senate acceded to the request of the House for a conference on **HB 2510**.

The President appointed Senators Longbine, Fagg and Holscher as conferees on the part of the Senate.

On motion of Senator Warren, the Senate acceded to the request of the House for a conference on **HB 2537**.

The President appointed Senators Warren, Wilborn and Haley as conferees on the part of the Senate.

On motion of Senator Kerschen, the Senate acceded to the request of the House for a conference on **HB 2559**.

The President appointed Senators Kerschen, Ryckman and Ware as conferees on the part of the Senate.

On motion of Senator Longbine, the Senate acceded to the request of the House for a conference on **HB 2564**.

The President appointed Senators Longbine, Fagg and Holscher as conferees on the part of the Senate.

On motion of Senator Baumgardner, the Senate acceded to the request of the House for a conference on **S Sub HB 2567**.

The President appointed Senators Baumgardner, Erickson and Sykes as conferees on the part of the Senate.

On motion of Senator Petersen, the Senate acceded to the request of the House for a conference on **HB 2595**.

The President appointed Senators Petersen, Claeys and Hawk as conferees on the part of the Senate.

On motion of Senator Peck, the Senate acceded to the request of the House for a conference on **S Sub HB 2597**.

The President appointed Senators Tyson, Peck and Holland as conferees on the part of the Senate.

On motion of Senator Warren, the Senate acceded to the request of the House for a conference on **HB 2607**.

The President appointed Senators Warren, Wilborn and Haley as conferees on the part of the Senate.

On motion of Senator Erickson, the Senate acceded to the request of the House for a conference on **HB 2703**.

The President appointed Senators Erickson, Dietrich and Holland as conferees on the part of the Senate.

On motion of Senator Warren, the Senate acceded to the request of the House for a conference on **HCR 5022**.

The President appointed Senators Warren, Wilborn and Haley as conferees on the

part of the Senate.

CHANGE OF CONFERENCE

Senators Baumgardner, Erickson and Sykes are appointed to replace Senators Warren, Wilborn and Haley as members of the conference committee on **SB 58**.

Senators Tyson, Peck, and Holland are appointed to replace Senators Warren, Baumgardner, and Haley as members of the conference committee on **HB 2106**.

Senator Corson is appointed to replace Senator Haley as a member of the conference committee on **SB 150**.

On motion of Senator Alley, the Senate recessed until 4:00 p.m.

AFTERNOON SESSION

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

MESSAGES FROM THE GOVERNOR

SB 335, SB 392, Sub SB 400 approved on March 29, 2022

MESSAGE FROM THE HOUSE

The House accedes to the request of the Senate for a conference on **SB 150** and has appointed Representatives Tarwater, Arnberger and Clayton as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 405** and has appointed Representatives Barker, Arnberger and Ruiz, L. as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **Sub SB 563** and has appointed Representatives Croft, Ralph and Burroughs as conferees on the part of the House.

The House announced the appointment of Representatives Barker, Arnberger and Ruiz, L. as conferees on **HB 2540** to replace Representatives Clark, Ellis and Wiegel.

The House announced the appointment of Representatives Williams, Hoffman and Winn as conferees on **SB 58** to replace Representatives Patton, Ralph and Carmichael.

The House concurs in Senate amendments to **HB 2228**.

The House concurs in Senate amendments to **S Sub HB 2458**.

The House concurs in Senate amendments to **HB 2605**.

The House concurs in Senate amendments to **HB 2075**, and requests return of the bill.

The House concurs in Senate amendments to **HB 2537**, and requests return of the bill.

The House nonconcurrs in Senate amendments to **S Sub HB 2416**, requests a conference and has appointed Representatives Smith, A., Mason and Gartner as conferees on the part of the House.

The House announced the appointment of Representatives Williams, Hoffman, and Winn to replace Representative Rahjes, Smith, E., and Carlin on the Conference Committee on **SB 160**

The House announced the appointment of Representative Highland to replace

Representative Mason as a conferee on **HB 2106**

The House announced the appointment of Representatives Landwehr, Eplee and Ruiz, S to replace Representatives Barker, Arnberger and Ruiz, L as conferees on **HB 2540**.

The House announced the appointment of Representative Highland to replace Representative Mason as a conferee on **S Sub HB 2416**.

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

Senator Petersen moved the Senate concur in House amendments to **H Sub SB 101**.

H Sub SB 101, AN ACT concerning electric-assisted bicycles; relating to the regulation and approved use thereof; providing for use of certain sizes of motors; amending K.S.A. 8-1437, 8-1439a, 8-1489, 8-1592b and 32-701 and K.S.A. 2021 Supp. 8-126, 8-128, 8-1402a, 8-1438, 8-1498 and 8-2401 and repealing the existing sections.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Holland, Holscher, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Ware, Warren, Wilborn.

Nays: Hilderbrand, Tyson.

Absent or Not Voting: Kerschen.

The Senate concurred.

Senator Erickson moved the Senate concur in House amendments to **SB 161**.

SB 161, AN ACT concerning personal package delivery devices; definitions; operating requirements and restrictions; exemption from motor vehicle requirements; limitation of local regulation; requiring entities to submit annual fees and certification forms to the division of vehicles; amending K.S.A. {2021} Supp. 8-126 and repealing the existing section.

On roll call, the vote was: Yeas 22; Nays 17; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Dietrich, Doll, Erickson, Fagg, Gossage, Hilderbrand, Kloos, Longbine, Masterson, McGinn, O'Shea, Petersen, Ryckman, Straub, Suellentrop, Warren, Wilborn.

Nays: Corson, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, Olson, Peck, Pettey, Pittman, Pyle, Steffen, Sykes, Thompson, Tyson, Ware.

Absent or Not Voting: Kerschen.

The Senate concurred.

Senator Gossage moved the Senate concur in House amendments to **SB 199**.

SB 199, AN ACT concerning insurance; relating to health insurance; providing for short-term, limited-duration health plans; amending K.S.A. 40-2,193 and repealing the existing section.

On roll call, the vote was: Yeas 28; Nays 11; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Dietrich, Doll, Erickson, Fagg, Gossage, Hilderbrand, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pyle, Ryckman, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren, Wilborn.

Nays: Corson, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, Pettey, Pittman, Sykes, Ware.

Absent or Not Voting: Kerschen.

The Senate concurred.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **HB 2717**, As Amended by House Committee, be passed.

Also, **HB 2644** be amended on page 1, in line 7, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Redistricting** recommends **SB 577** be amended on page 1, in line 28, by striking "24,"; also in line 28, after the second comma by inserting "38,"; in line 32, after "districts" by inserting "24,"; also in line 32, by striking the second comma and inserting "and"; also in line 32, by striking "and 38"; in line 34, by striking "26, 27" and inserting "25"; also in line 34, after "28" by inserting ", 29";

On page 2, in line 2, by striking "25, 29" and inserting "26, 27"; and the bill be passed as amended.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Wilborn an emergency was declared by a 2/3 constitutional majority, and **SB 577**, as amended by Senate committee, was advanced to Final Action subject to amendment, debate and roll call.

SB 577, AN ACT concerning reapportionment; relating to state board of education districts; providing for the reapportionment thereof; repealing K.S.A. 2021 Supp. 4-514 and 4-526.

On roll call, the vote was: Yeas 31; Nays 8; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Gossage, Hilderbrand, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Thompson, Tyson, Ware, Warren, Wilborn.

Nays: Corson, Francisco, Haley, Hawk, Holland, Holscher, Pettey, Sykes.

Absent or Not Voting: Kerschen.

The bill passed, as amended.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2005** submits the following report:

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

On page 3, following line 3, by inserting:

"New Sec. 2. The provisions of sections 2 through 21, and amendments thereto, shall be known and may be cited as the elevator safety act.

New Sec. 3. As used in sections 1 through 20, and amendments thereto:

(a) "Act" means the elevator safety act.

(b) "Board" means the elevator safety advisory board.

(c) (1) "Elevator" means any device for lifting or moving people, cargo or freight within, or adjacent and connected to, a structure or excavation, including, but not limited to, an escalator, power-driven stairway, moving walkway or stairway chair lift.

(2) The term "elevator" does not mean any:

(A) Amusement ride or other device subject to the Kansas amusement ride act, K.S.A. 2021 Supp. 44-1601 et seq., and amendments thereto;

(B) mining equipment;

(C) aircraft, railroad car, boat, barge, ship, truck or other self-propelled vehicle or component thereof;

(D) a dumbwaiter, conveyor, chain or bucket hoist, construction hoist or similar device used for the primary purpose of elevating or lowering materials;

(E) boiler grate stoker or other similar firing mechanism subject to the boiler safety act, K.S.A. 44-913 et seq., and amendments thereto; or

(F) lift, manlift, belt manlift, chain hoists, climb assists, special purpose personnel elevator, automated people mover or similar device in wind turbine towers, grain elevators, grain warehouses, seed processing facilities, grain processing facilities, biofuel processing facilities, feed mills, flour mills or any similar pet food, feed or agricultural commodity processing facilities.

(d) "Elevator apprentice" means an individual who works under the supervision or general direction of a licensed elevator mechanic.

(e) "Elevator contractor" means a sole proprietorship, firm, partnership, corporation or association that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing or maintaining elevators.

(f) "Elevator inspector" means an individual engaged in the business of inspecting elevators.

(g) "Elevator mechanic" means an individual engaged in the business of erecting, constructing, installing, altering, servicing, repairing or maintaining elevators under the direct supervision of an elevator contractor.

(h) "Licensee" means an elevator contractor, inspector or mechanic who is licensed pursuant to this act.

New Sec. 4. (a) The provisions of this act shall apply to the design, construction, installation, operation, inspection, testing, maintenance, alteration and repair of elevators.

(b) The provisions of this act shall not apply to elevators that are:

(1) In or adjacent to a building or excavation owned by or under the operational control of any federal agency or located on property owned by the United States or any federally recognized native American Indian tribe;

(2) in a single family residence; or

(3) in or adjacent to a building or structure within a manufacturing, utility or other industrial facility.

(c) Any elevator described in subsection (b) shall be inspected by a licensed elevator inspector upon request by the owner or the owner's agent and payment of the inspection fee.

(d) Nothing in this act shall be construed to relieve or lessen the responsibility or liability of any individual, firm or corporation owning, operating, controlling, maintaining, erecting, constructing, installing, altering, inspecting, testing or repairing any elevator for damages to a person or property caused by any defect therein, or as an

assumption of any such liability or responsibility or any liability to any person for whatever reason by the state by enactment of this act or any acts or omissions arising under the provisions of this act.

New Sec. 5. Nothing in this act shall be construed to preempt or otherwise restrict a city or county from adopting or continuing any requirements or standards that meet or exceed those of this act and any rules and regulations adopted pursuant thereto. Any city or county that has adopted such requirements or standards shall notify the state fire marshal of such adoption on or before June 30, 2023, and on each June 30 thereafter.

New Sec. 6. (a) No individual shall erect, construct, alter, replace, maintain, remove or dismantle any elevator contained within a building or other structure in this state or wire any elevator from the mainline feeder terminals on the controller unless such individual is a licensed elevator mechanic and such individual is working under the direct supervision of a licensed elevator contractor. An elevator mechanic's license or elevator contractor's license is not required for removing or dismantling elevators that are destroyed as a result of a complete demolition of a secured building or structure, or where the hoistway or wellway is demolished back to the basic support structure whereby no access is permitted therein to endanger the safety and welfare of a person.

(b) No individual shall inspect any elevator within a building or other structure in this state, including, but not limited to, private residences, unless such individual is a licensed elevator inspector. This subsection shall not apply to any individual employed as an elevator inspector by a city or county who performs inspections only while engaged in the performance of such individual's duties as an employee of such city or county.

(c) No individual, firm, partnership, corporation, association or other entity shall erect, alter, replace, maintain, remove, dismantle or operate any elevator in this state or construct any elevator for use in this state in violation of this act or rules and regulations adopted pursuant thereto.

(d) All elevators shall conform to the rules and regulations adopted pursuant to this act. Where any material alteration is made, the elevator shall conform to applicable requirements of the code. Nothing in this act shall be construed so as to prevent the use, sale or reinstallation of an elevator installed in this state prior to the effective date of this act, provided that such elevator has been made to conform to the rules and regulations adopted pursuant to this act and has not been found upon inspection to be in an unsafe condition or in violation of this act or rules and regulations adopted pursuant thereto.

New Sec. 7. (a) There is hereby established the elevator safety advisory board. The elevator safety advisory board shall consist of the following eleven members who shall be residents of this state:

- (1) Seven members, to be appointed by the governor as follows:
 - (A) One representative from a major elevator manufacturing company or its authorized representative;
 - (B) one representative from an elevator servicing company;
 - (C) one representative of the architectural design or elevator consulting profession;
 - (D) one representative of a city or county in this state;
 - (E) one representative of a building owner or building manager;
 - (F) one representative of labor involved in the installation, maintenance and repair

of elevators; and

- (G) one representative from the general public;
- (2) one member to be appointed by the president of the senate;
- (3) one member to be appointed by the speaker of the house of representatives;
- (4) the state fire marshal or the state fire marshal's designee, who shall serve ex officio; and
- (5) the secretary of administration or the secretary's designee, who shall serve ex officio.

(b) Each member of the board appointed under subsections (a)(1) through (3) shall serve a term of three years or until a successor is appointed and qualified. Whenever a vacancy occurs, a successor shall be appointed in accordance with subsection (a). The members of the board shall elect one of the members to serve as chairperson.

(c) The members of the board shall serve without compensation. Members who are not state officers or employees and who are attending meetings of such committee, or attending a subcommittee meeting thereof authorized by such committee, shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto.

(d) The board shall meet at least six times each year at a time and place to be fixed by the state fire marshal and at such other times as the state fire marshal deems necessary for the consideration of rules and regulations and for the transaction of such other business as may come properly before the board.

(e) The board shall advise the state fire marshal and make recommendations regarding rules and regulations necessary to implement and enforce the provisions of this act. The board shall annually review any rules and regulations adopted by the state fire marshal pursuant to this act.

New Sec. 8. (a) (1) Any individual, firm, partnership, corporation, association or other entity wishing to engage in the business of installing, altering, servicing, replacing or maintaining elevators shall make application for an elevator contractor's license in such form and manner as prescribed by the state fire marshal and shall pay the required initial application fee, which shall not exceed \$500. An applicant shall demonstrate that such applicant employs a licensed elevator mechanic or mechanics to perform the work described in section 6, and amendments thereto, and shall provide proof of compliance with the insurance requirements set forth in section 9, and amendments thereto.

(2) Any individual wishing to engage in installing, altering, repairing or servicing of elevators shall make application for an elevator mechanic's license in such form and manner as prescribed by the state fire marshal and shall pay the required initial application fee, which shall not exceed \$150.

(3) Any individual wishing to engage in the business of inspecting elevators shall make application for an elevator inspector's license in such form and manner as prescribed by the state fire marshal and shall pay the required initial application fee, which shall not exceed \$250. An applicant shall provide proof of compliance with the insurance requirements set forth in section 9, and amendments thereto.

(b) No license shall be issued to any applicant that has not demonstrated the requisite qualifications and abilities required by this act and rules and regulations adopted pursuant thereto. Upon the state fire marshal's approval of an application as having met the requirements for licensure, the state fire marshal shall issue a license. Such license shall be valid for a period of two years and shall be renewable biennially upon submission of a renewal application and payment of the required renewal

application fee, which shall not exceed the initial application fee.

(c) An elevator mechanic license shall be issued, upon application, to an applicant that holds a certificate of completion from the national association of elevator contractors certified elevator technician certification program, national elevator industry education apprenticeship program or other equivalent nationally approved apprenticeship program; holds a valid license from a state having standards substantially equal to those of this act and the rules and regulations adopted pursuant thereto; or those persons who can demonstrate within the first year following enactment that such person has worked as an elevator mechanic without supervision for at least 8,000 hours within six years prior to the date of application.

(d) An elevator contractor's license may be issued, upon application, to an applicant that holds a valid license from a state having standards substantially equal to those of this act and rules and regulations adopted pursuant thereto.

(e) An elevator apprentice is not required to hold a license.

(f) Any city or county that has adopted requirements and standards that meet or exceed the requirements and standards of this act and any rules and regulations adopted pursuant thereto may issue an elevator contractor's license or elevator mechanic's license in accordance with such requirements and standards. Any such license shall specify that it is issued by such city or county. No such license shall be issued in lieu of any license issued by the state fire marshal or authorize the licensee to perform work as an elevator contractor or elevator mechanic outside the jurisdiction of the issuing city or county.

New Sec. 9. (a) Elevator contractors shall submit proof to the state fire marshal of a current insurance policy issued by an insurance company authorized to do business in this state that provides general liability coverage of at least \$1,000,000 for injury or death of any number of persons in any one occurrence, with coverage of at least \$500,000 for property damage in any one occurrence and proof of workers compensation insurance coverage as required by Kansas law.

(b) Elevator inspectors, except those employed by an agency, city or county, shall submit to the state fire marshal proof of a current insurance policy issued by an insurance company authorized to do business in this state that provides general liability coverage of at least \$1,000,000 for injury or death of any number of persons in any one occurrence, with coverage of at least \$500,000 for property damage in any one occurrence and proof of statutory workers compensation insurance coverage.

(c) Proof of such policies shall be delivered to the state fire marshal with the application for the license. A licensee shall provide the state fire marshal of notice of any material alteration or cancellation of any policy at least 10 days prior to the effective date of such change in the policy.

New Sec. 10. (a) Whenever the state fire marshal determines an emergency exists in the state due to a disaster, an act of God or work stoppage and the number of persons in the state holding elevator mechanic's licenses is determined by the state fire marshal to be insufficient to cope with the emergency, the state fire marshal may issue emergency elevator mechanic's licenses as necessary to assure the safety of the public. An elevator contractor or applicant for an emergency mechanic's license shall furnish such proof of competency as may be required by rules and regulations adopted pursuant to this act.

(b) An elevator contractor shall notify the state fire marshal when there are no

licensed elevator mechanics available to perform work requiring such license. The elevator contractor may request that the state fire marshal issue temporary elevator mechanic's licenses to individuals certified by the licensed elevator contractor to have an acceptable combination of documented experience and education to perform such work without the direct and immediate supervision of a licensed elevator mechanic. Any individual who is certified as such by an elevator contractor may apply for a temporary elevator mechanic's license in such form and manner as prescribed by the state fire marshal. The applicant shall pay the required application fee with such application, which shall not exceed \$50. The state fire marshal may issue a temporary elevator mechanic's license if the state fire marshal finds that the requirements for such licenses have been met.

New Sec. 11. (a) An application for a license may be denied or a license may be suspended or revoked by the state fire marshal upon a finding that one or more of the following have been committed by the applicant or licensee:

(1) Any willfully false statement or willful omission as to a material matter made in the process of securing a license or renewal of a license. A material matter is a fact relevant to a question or line of inquiry in the applicable application form or in additional inquiry of the applicant by the state fire marshal that if made known to the state fire marshal could constitute a basis for a denial of the application under this act or rules and regulations adopted pursuant thereto;

(2) fraud, misrepresentation or bribery in securing a license;

(3) failure to notify the state fire marshal and the owner of an elevator or the owner's agent when:

(A) Any elevator is being operated in this state that is not in compliance with this act or rules and regulations adopted pursuant thereto; and

(B) that such noncompliance was known by the licensee or reasonably should have been known by the licensee;

(4) failure to maintain any requirement or to notify the state fire marshal of any material alteration or change relating to any requirement that is necessary to obtain or renew a license that is in nature a continuing requirement, including, but not limited to, insurance requirements; or

(5) any violation of this act or rules and regulations adopted pursuant thereto.

(b) A license may be suspended or revoked upon a finding by the state fire marshal that facts and circumstances exist that require suspension or revocation of the license to protect the safety of the public, including, but not limited to, facts and circumstances going to the competence, ability or fitness of the licensee to safely conduct the work or activities permitted by the license in a manner that does not risk the safety or well-being of co-workers, employees or the public.

(c) An elevator inspector license may be suspended or revoked upon a finding by the state fire marshal that the licensed elevator inspector has performed duties incompetently, demonstrated untrustworthiness, falsified any matter or statement contained in any application or report or failed to report findings of any inspection made by such licensee to the state fire marshal as required under section 16, and amendments thereto. Such a suspension or revocation shall be effective upon receipt of notice of the suspension or termination by the licensee or the licensee's employer.

(d) Except as otherwise provided by this act, no license shall be suspended or revoked until after a written order issued by the state fire marshal has been served to the

licensee who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of the person to request a hearing as provided in section 13, and amendments thereto. The state fire marshal may issue emergency orders, including, but not limited to, immediate suspensions or revocations of a license, as provided by the Kansas administrative procedure act.

New Sec. 12. (a) In addition to any other penalty provided by law, the state fire marshal, upon a finding that any owner, lessee or operator of an elevator, or owner or lessee of a building or structure in which an elevator is located, has violated, knowingly permitted a violation or negligently failed to detect, report or correct a violation of any provision of this act or rules and regulations adopted pursuant thereto with regard to the construction, installation, maintenance, inspection or operation of an elevator, is authorized to impose a civil penalty not to exceed \$1,000 per violation for each day of such unlawful operation or violation. Such civil penalty shall constitute an actual and substantial economic deterrent to the violation for which the penalty is assessed.

(b) In addition to any other penalty provided by law, the state fire marshal, upon a finding that any licensee has violated, knowingly permitted a violation or negligently failed to detect, report or correct a violation of any provision of this act or rules and regulations adopted pursuant thereto, is authorized to impose a civil penalty not to exceed \$1,000 per violation. Such civil penalty shall constitute an actual and substantial economic deterrent to the violation for which the penalty is assessed.

(c) No civil penalty shall be imposed except upon the written order of the state fire marshal to the person who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of the person to request a hearing as provided in section 13, and amendments thereto.

(d) All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the elevator safety fee fund.

New Sec. 13. (a) Any individual, sole proprietor, firm, partnership, association or corporation aggrieved by an order issued by the state fire marshal pursuant to the provisions of this act may request a hearing on such order within 15 days from the date of the service of such order by filing such request in writing with the state fire marshal. Such hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act. The filing of a request for a hearing shall not abate or operate as a stay of the effect of an emergency order or an order to cease and desist or a stop work order unless otherwise stated in such order.

(b) Except as otherwise provided, all administrative proceedings by the state fire marshal under this act shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) Judicial review and civil enforcement of agency actions under this act shall be in accordance with the Kansas judicial review act.

New Sec. 14. It shall be the responsibility of a licensee to ensure that the design, construction, installation, operation, inspection, testing, maintenance, alteration and repair of an elevator is performed in compliance with the provisions of the state safety and fire prevention act, K.S.A. 31-132 et seq., and amendments thereto.

New Sec. 15. (a) No elevator shall be erected, constructed, installed or altered within or adjacent to a building or structure unless a valid permit is obtained from the

state fire marshal. Such permit shall be issued prior to the commencement of any work on such elevator. A permit shall only be issued to a licensed elevator contractor. A copy of such permit shall be kept at the construction site at all times while the work is in progress. Notwithstanding the issuance of a permit, no work shall be performed on any such elevator if the state fire marshal has issued a stop work order for such elevator.

(b) A licensed elevator contractor may apply for a permit in such form and manner as prescribed by the state fire marshal. The applicant shall pay the required permit fee with such application, which shall not exceed \$400.

(c) A permit may be revoked by the state fire marshal for any of the following reasons:

(1) Any false statement or misrepresentation exists as to the material facts in the application, or in the plans or specifications on which the permit was based;

(2) the permit was issued in error and should not have been issued in accordance with the provisions of this act;

(3) the work detailed under the permit is not being performed in accordance with the provisions of the application, or in the plans or specifications on which the permit was based, or is not in accordance with the code; or

(4) the licensed elevator contractor to whom the permit was issued fails or refuses to comply with a stop work order issued by the state fire marshal.

(d) (1) A permit shall expire:

(A) If the work authorized by such permit is not commenced within six months after the date of issuance, or within a shorter period of time specified by the state fire marshal, in the state fire marshal's discretion, at the time the permit is issued; or

(B) if, after the work has been commenced, the work is suspended or abandoned for a period of 60 days, or such shorter period of time as specified by the state fire marshal, in the state fire marshal's discretion, at the time the permit is issued.

(2) For good cause, the state fire marshal, in the state fire marshal's discretion, may allow an extension of any of the periods of time set forth in this subsection.

(e) This section shall not apply to any elevator to be erected, constructed, installed or altered in any city or county that has adopted requirements or standards that meet or exceed the requirements or standards of this act and any rules and regulations adopted pursuant thereto.

New Sec. 16. (a) It shall be the responsibility of the owner of any new or existing elevator or the owner's agent to have such elevator inspected annually by a licensed elevator inspector. Upon such inspection, the licensed elevator inspector shall provide the owner of the elevator or the owner's agent, the owner or lessee of the property where such elevator is located and the state fire marshal with a written inspection report describing any and all code violations. The owner of the elevator or the owner's agent shall have 30 days from the date of the inspection report to be in full compliance by correcting such violations. The state fire marshal may grant additional 30-day extensions of time if the state fire marshal determines good cause has been shown and the safety of the public will not be endangered.

(b) It shall be the responsibility of the owner of any elevator or the owner's agent to have a licensed elevator contractor conduct all required tests at the intervals required by this act and rules and regulations adopted pursuant thereto. All tests shall be performed by a licensed elevator mechanic.

(c) This section shall not apply to any elevator located in a city or county that has

adopted requirements or standards that meet or exceed the requirements or standards of this act and any rules and regulations adopted pursuant thereto.

New Sec. 17. (a) For any elevator installed prior to July 1, 2022, the owner of the elevator or the owner's agent shall apply for a certificate of operation on or before July 1, 2023. Such application shall be in such form and manner as prescribed by the state fire marshal and shall include a copy of the most recent inspection report required pursuant to section 16, and amendments thereto, and payment of the required application fee, which shall not exceed \$100.

(b) For any elevator installed on or after July 1, 2022, and prior to January 1, 2023, the owner of such elevator or the owner's agent shall apply for a certificate of operation within six months after such elevator is placed into operation. Such application shall be in such form and manner as prescribed by the state fire marshal and shall include a certification by the licensed elevator contractor that such installation was performed in compliance with the applicable provisions of this act and rules and regulations adopted pursuant thereto and payment of the required application fee, which shall not exceed \$100.

(c) On and after January 1, 2023, before a newly installed elevator may be placed into operation, the licensed elevator contractor that performed the new installation shall apply for a certificate of operation. Such application shall be in such form and manner as prescribed by the state fire marshal and shall include a certification by the licensed elevator contractor that such installation was performed in compliance with the applicable provisions of this act and rules and regulations adopted pursuant thereto and payment of the required application fee, which shall not exceed \$100.

(d) The state fire marshal shall grant applications and renewal applications for certificates of operation if the state fire marshal finds the applicant has demonstrated to the state fire marshal's satisfaction that all applicable provisions of this act and rules and regulations adopted pursuant thereto have been met, the elevator will be operated in accordance with the rules and regulations adopted pursuant to this act and operation of the elevator will not present a danger to the public.

(e) A certificate of operation shall be valid for one year from the date of issuance and may be renewed upon application submitted to the state fire marshal and payment of the required renewal fee, which shall not exceed the initial application fee. An application for a renewal certificate shall be accompanied by an inspection report for an inspection performed within the immediately preceding 12 months.

(f) Certificates of operation shall be clearly displayed on or in each elevator or in the machine room for such elevator. Each certificate of operation shall state that the elevator has been inspected, tested and found to be in compliance with all applicable standards of operation.

(g) This section shall not apply to any elevator located in a city or county that has adopted requirements and standards that meet or exceed the requirements and standards of this act and any rules and regulations adopted pursuant thereto.

New Sec. 18. (a) The state fire marshal shall establish a registry of elevators that are in operation and for which a certificate of operation has been issued and shall maintain the information provided under subsection (b) as part of such registry.

(b) On or before July 1, 2023, each elevator that was in operation on or before July 1, 2022, for which a certificate of operation has been issued pursuant to section 17, and amendments thereto, shall be registered with the state fire marshal. Such registration

shall include:

- (1) The name of the owner of such elevator, the owner's agent, if any, and the operator of the elevator;
- (2) the type;
- (3) the rated load and speed;
- (4) the name of the manufacturer;
- (5) the location and purpose for which such elevator is used; and
- (6) such additional information as may be required by rules and regulations adopted pursuant to this act.

(c) Any elevator that is placed into service and for which a certificate of operation is issued after July 1, 2022, shall be registered at such time as a certificate of operation is issued for such elevator. The registration for any such elevator shall include that information described in subsection (b).

(d) This section shall not apply to any elevator located in a city or county that has adopted requirements and standards that meet or exceed the requirements and standards of this act and any rules and regulations adopted pursuant thereto. Any such city or county shall establish and maintain a registry of elevators located in such city or county that are in operation. Such registry shall include that information described in subsection (b)(1) through (6).

New Sec. 19. (a) Any person may request an investigation into an alleged violation of this act or rules and regulations adopted pursuant thereto, or the installation, servicing, maintenance or operation of an elevator that appears to place the public or persons using such elevator in danger by notifying the state fire marshal of such violation or danger. Such request shall be in writing, setting forth in reasonable particularity the grounds for the request and be signed by the person making the request.

(b) Such request, notice and any records relating to the request shall be confidential and shall not be disclosed by the state fire marshal unless ordered to be disclosed by a court of competent jurisdiction. The provisions of this subsection shall expire on July 1, 2027, unless the legislature reviews and reenacts such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2027.

(c) Upon receipt of such notification, the state fire marshal shall investigate the alleged violation as soon as practicable, and to the extent determined appropriate by the state fire marshal, determine if such violation or danger exists and may issue such orders as the state fire marshal deems necessary to avoid danger to the public during such investigation. If the state fire marshal determines that there are no reasonable grounds to believe that a violation or danger exists, the state fire marshal shall notify in writing the person who submitted the request for investigation and the owner of the elevator or the owner's agent of such determination. If the state fire marshal determines that a violation or danger exists, the state fire marshal shall revoke the certificate of operation for such elevator, issue such orders as the state fire marshal deems necessary to address the violation or danger or take such other actions as provided by this act to address the violation or danger.

New Sec. 20. (a) On or before January 1, 2023, the state fire marshal shall adopt rules and regulations necessary to implement and enforce the provisions of this act. Rules and regulations adopted by the state fire marshal shall be based on and follow generally accepted national engineering standards, formula and practices that shall at a minimum include adoption of current American national standards known as the

American society of mechanical engineers (ASME) safety code for elevators and escalators and the safety standards for wind turbine tower elevators.

(b) Such rules and regulations shall include rules and regulations:

(1) For the operation, maintenance, servicing, construction, alteration and installation of elevators;

(2) requirements and qualifications for the licensure of elevator contractors, mechanics and inspectors, including initial and renewal application requirements, examination requirements and continuing education requirements;

(3) requirements and qualifications for the issuance of emergency and temporary licenses;

(4) requirements for issuance of permits and certificates of operation, including initial and renewal application requirements;

(5) requirements for registration of elevators; and

(6) standards for granting exceptions and variances from rules and regulations adopted pursuant to this act and municipal ordinances.

(b) The state fire marshal shall establish a schedule for fees for licenses, permits, certificates of operation, inspections and variance requests. The fees shall reasonably reflect the state fire marshal's actual costs and expenses to operate and to conduct those duties and obligations as described in this act.

(c) The state fire marshal shall have the authority to grant or deny requests for exceptions and variances from the requirements of rules and regulations adopted pursuant to this act or from municipal ordinances in cases where the state fire marshal finds such exception or variance would not jeopardize the public safety and welfare and that the request meets the applicable standards adopted by the state fire marshal for granting such an exception or variance.

New Sec. 21. The elevator safety fee fund is hereby established in the state treasury and shall be administered by the state fire marshal. The state fire marshal shall remit all moneys received from fees, charges or penalties assessed in accordance with this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the elevator safety fee fund. All expenditures from the elevator safety fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state fire marshal or the state fire marshal's designee.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "public safety; relating to the duties of the state fire marshal; amending"; in line 3, after the semicolon by inserting "creating the elevator safety act; relating to safety standards for elevators; licensure requirements for elevator inspection, installation and repair; establishing the elevator safety fee fund;";

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

ROB OLSON

RICHARD HILDERBRAND

OLETHA FAUST GOUDEAU

Conferees on part of Senate

RONALD HIGHLAND

BOYD ORR

LINDSAY VAUGHN

Conferees on part of House

Senator Olson moved the Senate adopt the Conference Committee Report on **HB 2005**.

On roll call, the vote was: Yeas 34; Nays 5; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeyes, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Holland, Holscher, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Ryckman, Straub, Suellentrop, Sykes, Ware, Warren, Wilborn.

Nays: Hilderbrand, Pyle, Steffen, Thompson, Tyson.

Absent or Not Voting: Kerschen.

The Conference Committee Report was adopted.

ORIGINAL MOTION

On motion of Senator Warren, the Senate acceded to the request of the House for a conference on **S Sub HB 2416**.

The President appointed Senators Warren, Wilborn and Corson as conferees on the part of the Senate.

CHANGE OF CONFERENCE

Senators Olson, Hilderbrand and Faust-Goudeau are appointed to replace Senators Billinger, Claeyes, and Hawk as members of the conference committee on HB 2087.

Senator Bowers is appointed to replace Senator Claeyes as a member of the conference committees on **H Sub SB 101; SB 313, SB 446; HB 2476, HB 2478, HB 2595**.

On motion of Senator Alley, the Senate adjourned until 10:00 a.m., Wednesday, March 30, 2022.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.

COREY CARNAHAN, *Secretary of the Senate*.

