

# Journal of the Senate

FORTY-SEVENTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, March 17, 2005—2:30 p.m.

The Senate was called to order by Vice President John Vratil.  
The roll was called with thirty-nine senators present.  
Senator Allen was excused.  
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

As You know, this is the day when we commemorate one of Your faithful servants, Saint Patrick, who died on March 17, 461 A.D. Born in England, he was kidnaped while still a young man and sold to an Irish King for whom he served as a slave for six years before escaping. He walked nearly 200 miles to the coast where he found passage back to England.

Eventually he returned to Ireland with the gospel of Christ and built churches and monasteries where thousands became Christians under his ministry. As a result of his spiritual leadership, Ireland was one of the most advanced civilizations in western Europe for 400 years.

What we learn from a young slave who became St Patrick is how You, O God, can empower one human being to accomplish great things.

Sometimes legislators can get discouraged when their one vote doesn't seem to matter. But each one of the 165 can have a great deal more influence than their single vote. Besides those who have moved up the ladder of responsibility, time and again one of them has done his or her homework, prepared thoroughly for debate and with persuasion and zeal carried the day when no one else thought it possible.

Remind each one of them today of how one person with You is a majority, and permit me to dedicate this closing limerick to one who, along with me, enjoys rhymes:

There's a Donovan I know named Les;  
As a Senator he's one of the best.  
He wears green for St. Pat  
And a real cowboy hat.  
He's an Irishman from Wichita West!  
I pray in the Name of Jesus Christ,  
AMEN

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 303**, An act concerning natural gas; relating to curtailment of service to certain consumers; prescribing procedures related thereto; amending K.S.A. 66-105a and repealing the existing section, by Committee on Ways and Means.

**SB 304**, An act concerning the development finance authority; regarding authority to issue bonds; amending K.S.A. 2004 Supp. 74-8905 and repealing the existing section, by Committee on Federal and State Affairs.

**REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 302**.

Commerce: **HB 2026**.

Education: **SB 301**.

Ways and Means: **HB 2037**.

**CHANGE OF REFERENCE**

The Vice President withdrew **SCR 1608** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Federal and State Affairs.

The Vice President withdrew **SB 179** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Judiciary.

The Vice President withdrew **SB 259** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Commerce.

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2105, HB 2200, HB 2309**.

Also, passage of **SB 91, as amended, SB 152, as amended, SB 153, as amended by House Substitute for SB 153**.

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2105, HB 2200, HB 2309** were thereupon introduced and read by title.

**FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS**

**SB 217**, An act requiring tuberculosis evaluations for certain faculty, staff and students who enter high school, college or university classrooms, 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 243**, An act concerning correctional facilities; relating to construction by private companies; amending K.S.A. 2004 Supp. 75-52,129 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 25, Nays 13, Present and Passing 1, Absent or Not Voting 1.

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

Nays: Barone, Betts, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, McGinn, Schmidt V.

Present and Passing: Wysong.

Absent or Not Voting: Allen.

The bill passed, as amended.

**SB 277**, An act concerning school districts; relating to defined terms; relating to preschool-aged at-risk pupils; amending K.S.A. 2004 Supp. 72-6407 and repealing the existing section, 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, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, O'Connor.

Absent or Not Voting: Allen.

The bill passed.

**SB 278.** An act relating to the division of vehicles; concerning records thereof; amending K.S.A. 2004 Supp. 74-2012 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.

**S Sub for HB 2016.** An act concerning offenses against children; relating to enhancing penalties; amending K.S.A. 21-3510 and 21-3511 and K.S.A. 2004 Supp. 21-3516 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 substitute bill passed.

**HB 2122.** An act concerning crimes and punishment; relating to the loss of value of the crime; controlled substances; amending K.S.A. 16-305, 19-3519, 21-3720, 21-3729, 21-3734, 21-3902, 21-3904, 21-3905, 21-4111, 39-717, 40-247, 40-2,118, 44-5,125 and 65-4150 and K.S.A. 2004 Supp. 21-3437, 21-3707, 21-3763, 21-3846, 32-1005, 40-5013 and 47-1827 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 36, Nays 3, 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, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, O'Connor, Pyle.

Absent or Not Voting: Allen.

The bill passed, as amended.

**HB 2183.** An act concerning Fort Hays state university; relating to the capital improvement project to renovate the memorial union; amending section 11 of chapter 184 of the 2004 Session Laws of Kansas 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 2314.** An act concerning offender registration; amending K.S.A. 2004 Supp. 22-4902, 22-4906 and 22-4909 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.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I support and vote in favor of **HB 2314**. This legislation accomplishes all the major goals of legislation previously voted down by this body in the form of **SB 117**. While some might misinterpret our votes and efforts regarding **SB 117**, we must be clear. **SB 117** if adopted in its original form placed the entire offender registration system at a real risk of being declared unconstitutional. **HB 2314** and now **SB 117** in its new form require notice of services available by the Kansas Bureau of Investigation be given to every school and day care center in the State annually. **HB 2314** and **SB 117** close a loophole that convicted predators currently in Prison or on parole must register for 10 years or for life upon release. Kansas' parents, teachers and day care providers need this information and I urge them to use it often. **HB 2314** provides a substantial expansion of those who must register. **HB 2314** provides notification to the offender that they must register. **HB 2314** provides notification to every school and day care center of the services that are available. **HB 2314** punishes scofflaws who fail to register. For all these reasons and for our children I am proud to support **HB 2314** and now **SB 117**.—PHILLIP B. JOURNEY

Senators Huelskamp, Peterson and Pyle request the record to show they concur with the "Explanation of Vote" offered by Senator Journey on **HB 2314**.

**HB 2315**, An act relating to motor vehicles; concerning permanent registration; amending K.S.A. 2004 Supp. 8-1,134 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 2323**, An act concerning insurance companies; relating to statutory changes for compatibility with the Kansas corporation code; amending K.S.A. 40-305 and 40-502 and K.S.A. 2004 Supp. 40-306 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 2325**, An act relating to insurance; pertaining to guaranteed investment contracts and related types of insurance contracts; amending K.S.A. 40-401, 40-436 and 40-3641 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 2327**, An act concerning crimes and punishment; relating to the juvenile justice authority and the testing of juvenile offenders for infectious diseases; amending K.S.A. 65-6015 and 65-6017 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 2347**, An act concerning land conveyances; authorizing the state board of regents to sell and convey a certain tract of real estate located in Ellis county, Kansas, for and on behalf of Fort Hays state university to the city of Hays, Kansas; authorizing the secretary of the department of administration to transfer certain land, 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 2387**, An act concerning persons who have committed or who have been alleged to have committed criminal acts; deaths of inmates, prisoners or juvenile offenders; payment of certain expenses; amending K.S.A. 2004 Supp. 19-1910, 19-1935, 19-4444, 21-4603d and 75-52,147 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.

#### INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

##### SENATE RESOLUTION No. 1831

A RESOLUTION congratulating and commending the city of Manhattan and Riley County upon their sesquicentennial.

WHEREAS, The city of Manhattan was founded on June 4, 1855, on the edge of the Kansas flint hills at the junction of the Kansas and Blue Rivers. The founders were from several New England states; some came to Kansas on the steamboat Hartford to help make Kansas a free state; and

WHEREAS, Manhattan is home to Kansas State University, a public university which has grown from its founding in 1863 with 52 students to over 23,000 today and one of America's premier educational institutions. Throughout its history Manhattan has been a strong friend and good neighbor to Fort Riley, a United States army post which once was

the army's home of the cavalry. Now it is a facility which has grown to over 100,000 acres with a population of several thousand military personnel and their families. On June 1, 1963, Tuttle Creek Lake, a federal flood control project was dedicated creating a recreational lake of some 21,000 acres and becoming a magnet for swimmers, boaters and fishermen; and

WHEREAS, Manhattan has long been a great place to live and was recognized as such in 1952 when it was named an All-American city. The city joined with Riley County in 1971 to form the only city-county consolidated law enforcement agency in the state. The city's passage of a nearly \$3 million quality-of-life bond issue in 1986 emphasized the community's efforts to keep the city a great place to live and to maintain the city's parks; and

WHEREAS, Manhattan continues to be a city of progress:

The American Institute of Baking came to the city in 1978; today the organization attracts approximately 130 resident students per year as well as nearly 3,000 students from all over the world to attend its seminars;

The Manhattan Town Center mall opened in 1987 with 40 stores which now has three department stores creating a downtown anchor and the start of Manhattan becoming a major regional shopping center;

Manhattan points with pride to its superior K through 12 educational system and the community's dedication to producing well educated graduates prepared to reaching their life goals;

Manhattan became a major regional medical center when Memorial and St. Mary Hospitals merged in 1996 to form the Mercy Health Center; and

WHEREAS, The City of Manhattan and Riley County are both celebrating their sesquicentennial this year. All citizens of the City of Manhattan and Riley County are proud to be part of the state of Kansas: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the city of Manhattan and Riley County upon their first 150 years as a growing, vibrant Kansas region and extend our best wishes for the future; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to Dave Lewis, Chairperson of the Manhattan/Riley County Celebrate 150 Committee and to Lyle A. Butler, President/CEO, Manhattan Area Chamber of Commerce, 501 Poyntz Avenue, Manhattan, KS 66502-6005.

On emergency motion of Senator Reitz **SR 1831** was adopted unanimously.

Senator Reitz acknowledged members of the Manhattan Chamber of Commerce who were in the gallery.

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

SENATE RESOLUTION No. 1832

A RESOLUTION congratulating and commending the  
Labette Community College wrestling team.

WHEREAS, The Labette Community College wrestling team won the 2005 National Junior College Athletic Association National Championship on Saturday, February 26 in Rochester, Minnesota. It is their first national championship; and

WHEREAS, Earl Jones became the school's first two-time national champion by winning the 133-pound title and clinching the Cardinals' championship. His 9-0 victory increased the Cardinals' total points to 108 and ahead of North Idaho which finished with 99 points. He also was named the meet's most outstanding wrestler; and

WHEREAS, Team honors were as follows:

Earl Jones, Champion—133 pounds  
Cory Allison, 5th place—141 pounds  
Luke Elmore, 4th place—149 pounds  
Adam Ingram, 2nd place—157 pounds  
Alex Saunders, 7th place—184 pounds  
Jared Shelton, 2nd place—197 pounds  
Brandon Pigorsch, national qualifier, 125 pounds  
Donnie McMillin, national qualifier, 165 pounds  
Dustin Martin, national qualifier, 295 pounds

WHEREAS, Joe Renfro, the team coach, was named the NJCAA Coach of the Year. Jody Thompson, the college's athletic director, who started the school's wrestling program and served as its coach for 27 years, stated that he felt this year would be a great year for the team and praised his protege, Mr. Renfro, for making certain the team lived up to its potential; and

WHEREAS, More than 200 team supporters were on hand to welcome the team as it returned to campus—many wearing freshly printed T-shirts proclaiming the Cardinals as the national champions: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the Labette Community College wrestling team upon winning the 2005 National Junior College Athletic Association national championship; and

*Be it further resolved:* That the Secretary of the Senate provide 12 enrolled copies of this resolution to Ronald Fundis, President, Labette Community College, 200 S. 14th, Parsons, KS 67357.

On emergency motion of Senator Umbarger **SR 1832** was adopted unanimously.

Senator Umbarger introduced and congratulated team members, Jared Shelton, Corey Allison, Luke Elmore, Adam Ingram, Donnie McMillin, Dustin Martin, Alex Saunders, Brandon Pigorsch and Earl Jones; Coach Joe Renfro, Assistant Coach Joel Thompson and Athletic Director Jody Thompson.

#### REPORT ON ENGROSSED BILLS

**SB 113, SB 217, SB 243** reported correctly engrossed March 17, 2005.

#### REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HB 2141; Sub HB 2142** be passed.

Committee on **Federal and State Affairs** recommends **SB 267** be amended on page 1, by striking all in lines 14 through 43;

On page 2, by striking all in lines 1 through 13; in line 14, by striking "Sec. 2." and inserting "Section 1."; in line 23, after "serving" by inserting "free of charge"; in line 34, by striking "five" and inserting "three";

On page 3, in line 7, by striking "250,000" and inserting "100,000";

On page 4, by striking all in lines 15 through 43;

By striking all on pages 5 and 6;

On page 7, by renumbering sections 5 and 6 as sections 2 and 3; in line 1, by striking all after the first "K.S.A."; in line 2, by striking all before "hereby" and inserting "41-308a is";

In the title, in line 9, by striking all after "K.S.A."; in line 10, by striking all before the second "and" and inserting "41-308a"; in line 11, by striking "sections" and inserting "section"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2014, HB 2390** be passed.

Committee on **Public Health and Welfare** recommends **HB 2155**, as amended by House Committee, be amended on page 2, in line 12, after "order" by inserting: "issued on or after the effective date of this act"; in line 13, by striking "not" and inserting: "except a drug"; also in line 13, after "act" by inserting: "or a narcotic drug listed on any schedule of the uniform controlled substances act"; in line 20, by striking "unit" and inserting "package of the drug"; in line 23, by striking all after the period; by striking all in lines 24 through 29 and inserting: "A pharmacist who refills a prescription order under this subsection (c)(2) shall contact the prescriber of the prescription order on the next business day subsequent to the refill or as soon thereafter as possible. No pharmacist shall be required to refill any prescription order under this subsection (c)(2). A prescriber shall not be subject to liability for any damages resulting from the refilling of a prescription order by a pharmacist under this subsection (c)(2) unless such damages are occasioned by the gross negligence or willful or wanton acts or omissions by the prescriber.";

On page 3, in line 8, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Also, **HB 2284**, as amended by House Committee of the Whole, be amended on page 1, in line 22, by striking "discreetly"; 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 Huelskamp in the chair.

On motion of Senator Huelskamp the following report was adopted:

Recommended **HB 2031** be passed.

The committee report on **SB 85** recommending a **Sub SB 85** be adopted, and the substitute bill be passed.

The following amendment offered by Senator Palmer to **Sub SB 85** was rejected:

On page 1, following line 16, by inserting the following:

“Sec. 2. The department of social and rehabilitation services shall not make any expenditures to provide to any person more than one tablet or capsule per year of any drug used to treat erectile dysfunction and shall require appropriate clinical criteria in the prior authorization process for any such drug, subject to the provisions the state Medicaid agreement with the federal government and other applicable federal law.”;

By renumbering the remaining section accordingly;

On page 1, in the title, in line 10, preceding the period by inserting “; prescribing limitations on expenditures for certain drugs”

**HB 2077, HB 2262, HB 2409** be amended by adoption of the committee amendments, and the bills be passed as amended.

**FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS**

On motion of Senator D. Schmidt an emergency was declared by a 2/3 constitutional majority, and **Sub SB 85; HB 2031, HB 2077, HB 2262, HB 2409** were advanced to Final Action and roll call.

**Sub SB 85**, An act concerning the department of social and rehabilitation services; relating to a program for breast reconstructive surgery.

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

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

Nays: O'Connor.

Absent or Not Voting: Allen, McGinn.

The substitute bill passed.

**HB 2031**, An act concerning the division of post audit; relating to certain income tax abatements, audits and reports; amending K.S.A. 2004 Supp. 79-3233b and repealing the existing section.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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, McGinn.

The bill passed.

**HB 2077**, An act concerning the state board of pharmacy, establishing a cancer drug repository program.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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, McGinn.

The bill passed, as amended.



**HB 2262**, An act concerning civil procedure; relating to legal holidays; amending K.S.A. 2004 Supp. 60-206 and repealing the existing section.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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, McGinn.

The bill passed, as amended.

**HB 2409**, An act relating to roads and highways; designating part of United States highway 54 as the Veterans Memorial highway; designating part of K-10 highway as the Governor John Anderson, Jr. highway; amending K.S.A. 2004 Supp. 68-1029 and repealing the existing section.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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, McGinn.

The bill passed, as amended.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Friday, March 18, 2005.

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

PAT SAVILLE, *Secretary of the Senate*.

